Vice-Chair
Alanis, Juan

Members
González, Mark
Haney, Matt
Harabedian, John
Lackey, Tom
Nguyen, Stephanie
Ramos, James C.
Sharp-Collins, LaShae

California State Assembly

PUBLIC SAFETY

NICK SCHULTZ
CHAIR

Chief Counsel
Andrew Ironside

Deputy Chief Counsel
Stella Choe

Staff Counsel
Kimberly Horiuchi
Dustin Weber
Mary Kennedy
Ilan Zur

Lead Committee Secretary
Samarpreet Kaur

Committee Secretary
Jason Rich

1020 N Ste, Room 111
(916) 319-3744
FAX: (916) 319-3745

AGENDA

Tuesday, June 23, 2026
9 a.m. -- State Capitol, Room 126

REGULAR ORDER OF BUSINESS

HEARD IN SIGN-IN ORDER

LIMITED TESTIMONY FOR SUPPORT AND OPPOSITION

FOUR MINUTES PER SIDE FOR SUPPORT AND OPPOSITION

1.	SB 99	Blakespear	Military protective orders.
2.	SB 937	Gonzalez	Law enforcement: flash-bang grenades and explosive breaching charges.
3.	SB 938	Menjivar	Peace officers: training requirements.
4.	SB 1004	Wiener	Law enforcement: masks.
5.	SB 1009	Becker	Juveniles: detention.
6.	SB 1015	Strickland	Crimes: minors.
7.	SB 1022	Valladares	Human trafficking: California Multidisciplinary Alliance to Stop Trafficking Act.
8.	SB 1100	Smallwood-Cuevas	Grand juries: final reports.
9.	SB 1105	Pérez	PULLED BY THE AUTHOR.
10.	SB 1130	Reyes	Invasion of privacy: wearable recording devices.
11.	SB 1173	Caballero	Jury instructions: lesser related offenses.
12.	SB 1198	Menjivar	Vehicles: reckless driving: impoundment.
13.	SB 1208	Grayson	PULLED BY THE AUTHOR.
14.	SB 1211	Gonzalez	Criminal procedure: postconviction investigation.
15.	SB 1220	Hurtado	Firearms: prohibited persons.
16.	SB 1230	Valladares	Solid waste: illegal dumping: penalties: resources.
17.	SB 1257	Arreguín	Federal immigration enforcement: report.

18.	SB 1266	Stern	PULLED BY THE AUTHOR.
19.	SB 1276	Rubio	Crimes: sexual exploitation of a child.
20.	SB 1285	Durazo	Juvenile court: procedure.
21.	SB 1307	Jones	False or forged instruments.
22.	SB 1338	Jones	Vehicles: repossession.
23.	SB 1342	Durazo	Criminal records: relief.
24.	SB 1395	Valladares	Criminal procedure: protective orders.
25.	SB 1401	Stern	Criminal procedure: competence to stand trial.

Date of Hearing: June 23, 2026
Counsel: Dustin Weber

ASSEMBLY COMMITTEE ON PUBLIC SAFETY
Nick Schultz, Chair

SB 99 (Blakespear) – As Amended June 4, 2026

SUMMARY: Authorizes a court determining whether to issue a protective order to consider whether evidence submitted to it by either party that a military protective order (MPO) has been issued against the respondent, as specified. Specifically, **this bill**:

1) Expands the requirement that, upon receiving information at the scene of a domestic violence incident, a law enforcement officer immediately inquire of the California Restraining and Protective Order System or the National Crime Information Center (NCIC) to include verifying existence of a military protective order.

2) Requires a law enforcement officer, if that officer determines that an MPO registered in the NCIC systems has been issued against a person involved in the domestic violence incident who violates a provision of a protective order, to notify the law enforcement agency that entered the MPO into NCIC that the restrained party may be in violation of an MPO.

3) Provides that each law enforcement agency in the state that petitions for or enforces protective orders issued, as specified, may develop and adopt memoranda of understanding (MOU) with military law enforcement or other designated representatives of one or more military installations located in whole or in part within the borders of its jurisdiction that govern the investigation and actions related to domestic violence involving service members assigned to units on those installations.

4) Provides that the MOUs may include, but are not limited to, all of the following:

    a) To whom, how, and when each party would report information about potential violations of military or civilian protective orders;

    b) Each party's role and responsibilities when conducting an investigation and in providing domestic violence prevention or rehabilitative services to a family in response to the results of the investigations, consistent with state and federal law; and

    c) Protocols describing what, if any, confidential information may be shared between the parties and for what purposes, in accordance with applicable state and federal law.

5) Defines "military protective order" as "a protective order issued by a commanding officer in the Armed Forces of the United States, California National Guard, or the national guard of another state or territory against a person under the officer's command."

EXISTING FEDERAL LAW:

1) States that an MPO issued by a military commander remain in effect until such time as the military commander terminates the order or issues a replacement order. (10 U.S.C. § 1567)

2) Establishes, in the event an MPO is issued against a member of the armed forces, that the commander of the unit to which the member is assigned notify the appropriate civilian authorities of the issuance of the order and the individuals involved in the order not later than seven days after the date of the issuance of the order. (10 U.S.C. § 1567a(a).)

3) Requires that specified military commanders must also communicate with appropriate civilian authorities regarding the transfer of an individual against whom an MPO has been issued, and any changes to or termination of that MPO. (10 U.S.C. § 1567a(b), (c).)

EXISTING STATE LAW:

1) Authorizes a court, under the Domestic Violence Protection Act (DVPA), to issue and enforce domestic violence restraining orders (DVROs), including emergency protective orders (EPOs), temporary (or ex parte) restraining orders (TROs), and longer-term or permanent restraining orders. (Fam. Code, § 6200 et seq.)

2) Requires, before a hearing on a protective order, that the court ensures a search of specified records and databases is conducted to determine if the subject of the proposed order has a prior criminal conviction, as specified, an outstanding warrant, is currently on parole or probation, or owns or possesses a registered firearm. (Fam. Code, § 6306, subd. (a).)

3) Specifies that the search required above must be conducted of all records and databases readily available and reasonably accessible to the court, including, but not limited to the following:

   a) The California Sex and Arson Registry (CSAR);

   b) The Supervised Release File;

   c) State summary criminal history information maintained by the DOJ, as specified;

   d) The Federal Bureau of Investigation's (FBI) nationwide database; and

   e) Locally maintained criminal history records or databases. (Fam. Code, § 6306, subd. (a)(1)(A)-(F).)

4) Requires the court to consider specified information obtained via the search of those records and databases before deciding whether to issue a protective order under the DVPA. (Fam. Code, § 6306, subd. (b)(1).)

5) Prohibits information obtained as a result of the search that does not involve a conviction, as specified, from being considered by the court in making a determination regarding the issuance of a DVRO. Requires that information to be destroyed and prohibits it from

becoming part of the public file in this or any other civil proceeding. (Fam. Code, § 6306, subd. (b)(2).)

6) Requires the court, after issuing its ruling, to advise the parties that they may request information obtained during the search specified above upon which the court relied, as specified. (Fam. Code, § 6306, subd. (c).)

7) States that the information obtained as a result of the search and relied upon by the court to be maintained in a confidential case file and prohibits it from becoming part of the public file in the proceeding or any other civil proceeding, as specified. (Fam. Code, § 6306, subd. (d).)

8) Provides that a protective order issued under the DVPA, whether a TRO, EPO, or an order issued after hearing pursuant to the DVPA, on request of the petitioner, to be served on the respondent by a law enforcement officer who is present at the scene of reported domestic violence involving the parties or who receives a request from the petitioner to provide service of the order. (Fam. Code, § 6383, subd. (a).)

9) States that a law enforcement officer, upon receiving information at the scene of a domestic violence incident that a protective order has been issued under the DVPA, or that a person who has been taken into custody is the respondent to that order, if the protected person cannot produce an endorsed copy of the order, to immediately inquire of the California Restraining and Protective Order System to verify the existence of the order. (Fam. Code, § 6383, subd. (d).)

10) Specifies the order in which protective orders must be enforced by law enforcement if multiple protective orders have been issued, as specified. (Fam. Code, § 6383, subd. (h)(2).)

11) Allows individuals with valid out-of-state protection orders to seek enforcement of those orders in California courts without having to reapply for a protective order under California law. (Fam. Code, § 6400 et seq.)

FISCAL EFFECT: Unknown

COMMENTS:

1) **Sponsors**: United States Department of Defense and CA Commission on The Status of Women and Girls

2) **Author's Statement**: According to the author, "Military protective orders (MPOs), analogous to domestic violence restraining orders, are a critical tool for addressing domestic abuse within the military, but their effectiveness is limited. While MPOs apply off base, civilian law enforcement cannot enforce them. This limitation is particularly concerning given the severe shortage of on-base housing. In my district, Camp Pendleton has a waiting list up to 16 months long for on-base housing, forcing many survivors to live off base and leaving them vulnerable to continued abuse.

   "SB 99 strengthens protections for survivors by bridging the gap between military and civilian systems. It allows courts to consider whether an MPO exists when deciding whether to grant a domestic violence prevention order. SB 99 also improves accountability by

requiring law enforcement officers who believe an MPO may have been violated to notify military authorities so appropriate enforcement action can be taken. Finally, the bill authorizes formal information sharing agreements between civilian law enforcement and military police to promote coordinated and effective responses to domestic violence.

"SB 99 ensures that domestic violence survivors are not left unprotected simply because their abuse crosses jurisdictional lines. By strengthening coordination and enforcement, this bill closes critical gaps and helps ensure meaningful, continuous protection for military families."

3) **Effect of the Bill**: SB 99 generally would authorize courts determining whether to issue a protective order, where an MPO already has been issued, to consider evidence submitted by either party. This bill also would require law enforcement to verify existence of an MPO at the scene of a domestic violence incident; and, where a determination is made that the restrained person violated a protective order, law enforcement is required to notify the agency that entered the MPO that the restrained person also may have violated the MPO. SB 99 additionally authorizes law enforcement to enter into memoranda of understanding with relevant military authorities to coordinate investigations and actions relating to administration of protective orders.

MPO is defined in this bill as "a protective order issued by a commanding officer in the Armed Forces of the United States, California National Guard, or the national guard of another state or territory against a person under the officer's command." Existing California law requires that prior to a hearing on the issuance or denial of a protective order, a court must conduct a background check and consider specified relevant criminal history. (Fam. Code, § 6306.) SB 99 specifies that law enforcement must determine whether the subject of the proposed order involved in a domestic violence incident has a current or prior MPO or a prior violation of an MPO, as entered into the National Crime Information Center (NCIC) system.[1] The NCIC is maintained by the FBI and is the country's central database for tracking crime-related information.[2] It is available to federal, state, and local law enforcement and other criminal justice agencies and is operational 24 hours a day, 365 days a year.[3] Generally, commanding officers are required to enter MPOs into NCIC.[4]

SB 99 seeks to improve communications between local law enforcement agencies in the state and military law enforcement entities overseeing MPOs. Existing law provides that upon receiving information at the scene of a domestic violence incident that a protective order has been issued, or that a person who has been taken into custody is the respondent to that order, if the protected person cannot produce a copy of the order, the responding officer must query the California Restraining and Protective Order System to verify the existence of the order. (Fam. Code, § 386, subd. (d).) SB 99 would authorize development of memoranda of

---

[1] *U.S. MARINE CORPS REQUIREMENT TO ENTER MILITARY PROTECTIVE ORDERS INTO THE FEDERAL BUREAU OF INVESTIGATION NATIONAL CRIME INFORMATION CENTER PROTECTION ORDER FILE AND THE USMC AUTHORIZED CRIMINAL JUSTICE INFORMATION SYSTEM* (Apr. 6, 2020) <https://www.marines.mil/News/Messages/Messages-Display/Article/2138712/u-s-marine-corps-requirement-to-enter-military-protective-orders-into-the-feder/> [as of June 12, 2026].
[2] *Ibid.*
[3] *Ibid.*
[4] *Ibid.*

understanding between law enforcement and military authority to improve coordination and administration of MPOs.

4) **Military Protective Orders:** A military protective order (MPO) is a lawful order issued by a commanding officer ordering the respondent, or restrained party, to avoid contact with the petitioner, or protected party. An MPO may be issued to protect a member of the U.S. military from an alleged non-military perpetrator, or to protect a non-military individual from a member of the military, though the order itself may only apply to a member of the Armed Forces. Generally, the non-military parties involved include dependents of a servicemember, such as a spouse, child or other family member who believe they are at risk of harm. MPOs can be issued verbally or in writing, and are indefinite in duration, only subject to modification or termination by the commander who issued the order. (10 U.S.C. § 1567.)

   MPOs are not enforceable by civilian law enforcement authorities but federal law does require a commander that issues an MPO to notify the appropriate civilian authorities of the order and the individuals involved no later than seven days after the issuance of the order. (10 U.S.C. § 1567a(a).) Where the subject of an MPO is transferred to another unit, the commander of the unit from which the subject is transferred must notify the commander of the destination unit, who must also notify the appropriate civilian authorities pursuant to the above requirement. (10 U.S.C. § 1567a(b).) The commander of the unit to which the subject of an MPO is assigned must also notify the appropriate civilian authorities if any change is made to the MPO or if the MPO is terminated. (10 U.S.C. § 1567a(b)-(c).) Violations of MPOs can be charged as violations of orders under Article 90 of the Uniform Code of Military Justice.[5]

5) **Due Process**: Due process concerns have been raised to SB 99. While MPOs undoubtedly raise due process concerns due to the untraditional process for issuing those orders (i.e., via commanding officers and not traditional magistrates or judges), courts have addressed some of these concerns. Not only are MPOs authorized by federal law (10 U.S.C. § 1567a) that are supreme to conflicting state law (U.S. Const., art. VI), the Ninth Circuit Court of Appeals has found that in certain cases a commanding officer "qualifies as a neutral and detached magistrate for the purpose of determining probable cause." (*United States v. Banks* (9th Cir. 1976) 539 F.2d 14, 16 [finding an on-base search and arrest warrant valid where the search and arrest were based on violation of civil law and that the probable cause determination was made by a commanding officer who was not involved in the civilian law enforcement investigation].) Probable cause for a warrant and issuance of a protective order undoubtedly differ but both implicate individual constitutional rights. Moreover, if our federal appellate court has determined that commanding officers qualify as neutral, detached magistrates in certain Fourth Amendment contexts, it is conceivable that courts may find them to be neutral, detached magistrates in the context of the Fifth Amendment's due process protections. This is arguably inconsistent with traditional notions of due process, but as the Third Circuit stated, "judicial review of [a commanding officer's authority over their post] must necessarily be limited." (*Committee to Free Ft. Dix 38 v. Collins* (3d Cir. 1970) 429 F.2d 807, 809.)

---

[5] Office of the Staff Judge Advocate Legal Assistance Office, *Military Protective Orders Fact Sheet* (Mar. 2025) <https://www.benning.army.mil/MCoE/SJA/content/PDF/20250509%20%20MPO%20FACT%20SHEET.pdf> [as of June 11, 2026].

Understandably, simply because federal courts seem to have upheld the constitutionality of commanding officers as neutral magistrates on base does not mean California should not jealously guard its particular commitment to due process. There is no current requirement that California accept the veracity of MPOs in its courtrooms and this bill does not establish such a requirement. SB 99 does not require courts to do much of anything with MPO evidence, however, this bill does give courts discretion to "consider evidence submitted to it by either party that a military protective order has been issued against the respondent for the same or similar conduct against a person to be protected by the proposed order." When faced with an MPO, a judge may opt not to consider the evidence of an MPO. This bill only explicitly allows a court to consider evidence of an MPO—an authority courts arguably already possess—but the bill does not mandate considering evidence of an MPO.

6) **Argument in Support**: According to the bill's sponsor, the *United States Department of Defense*, "This bill addresses critical gaps in the response to interpersonal violence in the military, enhancing the safety and readiness of our service members and their families.

"Addressing this important policy in California is of great significance to the Department and Military Services with over 242,000 active-duty, National Guard and reserve military members and over 89,000 spouses of military members stationed and living in the State. Our service members hold a crucial role in protecting the interests of the United States both at home and abroad and ensuring our overall national security. Through development of interpersonal violence policies at the state level facilitating enhanced implementation at local levels, states can help empower victims, deter offenders, and create an environment for military families that ensures their well-being and enhances their resilience and readiness.

"Interpersonal violence, which includes a continuum of harm from harassment to domestic abuse, directly impacts military readiness. When these harmful behaviors involve military personnel, they often cross between military and civilian jurisdictions. Interpersonal violence extends well beyond an individual victim, as the effects of violence directly impact all our service members, their families, the units to which they are assigned, and our greater national security. Without coordinated communication between authorities, offenses can go unaddressed, leaving victims at risk and undermining a commander's ability to ensure the welfare of their unit. SB 99 provides two essential solutions to bridge this jurisdictional gap:

- **Allows Military Protective Orders (MPOs) as evidence**: The bill enables state courts to consider a commander-issued MPO as evidence when a victim seeks a civilian restraining order. Currently, MPOs are not recognized or enforceable off a military installation. Explicitly allowing MPOs to be considered as evidence when a victim is seeking to obtain a civilian temporary restraining order will provide victims of interpersonal violence with greater access to state protections, services, and victim advocacy efforts that would not have been available through a standard military protective order that applies only on military property. This change provides judges with a more complete picture of the threat, gives victims faster access to civil protections, and can prevent them from having to relive their trauma in a second proceeding.

- **Enhances Information-Sharing**: The bill encourages reciprocal information-sharing between civilian and military law enforcement. While commanders are required to notify civilian authorities of MPOs, no reciprocal requirement exists for local agencies to notify the military of incidents or protective orders involving service members1. SB 99 closes

this communication gap, ensuring commanders can take appropriate action to stop abuse, support victims, and maintain unit accountability.

"These provisions directly complement federal law2 and the Department's own efforts3, including our Family Advocacy Program4, to prevent and respond to domestic abuse. By strengthening the partnership between California and the military, this legislation will improve the well-being of our service members and their families, thereby enhancing the readiness of our force."

7) **Argument in Opposition**: According to the *American Civil Liberties Union*, "While we agree in the importance of protecting survivors of domestic violence, we are deeply concerned about the fact that military protective orders (MPOs) are issued without due process. As such, these orders should not be used as evidence in state judicial processes.

"Military protective orders are issued with little to no due process for the subject of the order. The decision to impose an MPO is made by a Commanding Officer, not a judge. And this decision may be made without notice to the subject or any opportunity for the subject of the order to present evidence against the claims underlying the MPO. California should not compound the due process concerns with MPOs by allowing the orders to be used in state judicial proceedings.

"We recognize the need to continue finding ways to address domestic violence, but we must do so in balance with protecting due process. ACLU California Action is willing to remove our opposition if Section 1 of the bill is removed."

8) **Related Legislation**:

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

b) AB 1753 (Stefani), among other things, would authorize a court to dispense with notice when issuing an ex parte restraining order on a case-by-case basis and would prohibit courts from requiring petitioner showing exceptional circumstances to dispense with notice. AB 1753 is pending hearing in the Senate Public Safety Committee.

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

9) **Prior Legislation**:

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

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

c) AB 2822 (Gabriel), Chapter 536, Statutes of 2024, requires a law enforcement officer to make a notation in a domestic violence incident report if they remove a firearm or other deadly weapon.

d) SB 899 (Skinner), Chapter 544, Statutes of 2024, required the court, when issuing protective orders, to provide the person with information about how any firearms or ammunition still in their possession to be relinquished.

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

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

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

h) SB 66 (Kuehl), Chapter 572, Statutes of 2001, required the court, prior to a hearing on the issuance or denial of a protective order to ensure that a search of specified records and databases is or has been made to determine if the proposed subject of the order has any specified prior criminal convictions or outstanding warrants, is on parole or probation, or is or was the subject of other protective or restraining orders.

REGISTERED SUPPORT / OPPOSITION:

Support

CA Commission on the Status of Women and Girls (Co-Sponsor)
Arcadia Police Officers' Association
Brea Police Association
Burbank Police Officers' Association
California Association of School Police Chiefs
California Coalition of School Safety Professionals
California 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
Giffords
Los Angeles School Police Management Association

Los Angeles School Police Officers Association
Mayor Todd Gloria, City of San Diego
Military Services in California
Murrieta Police Officers' Association
Newport Beach Police Association
Palos Verdes Police Officers Association
Placer County Deputy Sheriffs' Assocation
Pomona Police Officers' Association
Riverside Police Officers Association
Riverside Sheriffs' Association
San Diego County District Attorney's Office
U.s. Department of Defense

Opposition

ACLU California Action

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

Date of Hearing: June 23, 2026
Counsel: Mary Kennedy

ASSEMBLY COMMITTEE ON PUBLIC SAFETY
Nick Schultz, Chair

SB 937 (Gonzalez) – As Amended June 16, 2026

SUMMARY: Prohibits law enforcement officers from using flash-bang grenades to disperse any assembly, protest, or demonstration, except as specified. Specifically, **this bill**:

1) Prohibits the use of flash-bang grenades by any law enforcement agency for the purposes of dispersing any assembly, protest, or demonstration, and requires that flash-bangs only be deployed by a peace officer that has received training on their proper use by the Commission on Peace Officer Standards and Training (POST) for crowd control or special weapons and tactics certified by an equivalent entity or training facility, if the use is objectively reasonable to defend against a threat to life or serious bodily injury to any individual, including any peace officer, or to bring an objectively dangerous and unlawful situation safely and effectively under control, and only in accordance with all of the following requirements:

    a) De-escalation techniques or other alternatives to force have been attempted, when objectively reasonable, and have failed.

    b) Repeated, audible announcements are made announcing the intent to use kinetic energy projectiles and chemical agents and the type to be used, when objectively reasonable to do so. The announcements shall be made from various locations, if necessary, and delivered in multiple languages, if appropriate.

    c) Persons are given an objectively reasonable opportunity to disperse and leave the scene.

    d) An objectively reasonable effort has been made to identify persons engaged in violent acts and those who are not, and flash-bang grenades are targeted toward those individuals engaged in violent acts. Projectiles shall not be aimed indiscriminately into a crowd or group of persons.

    e) Flash-bang grenades are used only with the frequency, intensity, and in a manner that is proportional to the threat and objectively reasonable.

    f) Officers shall minimize the possible incidental impact of their use of flash-bang grenades on bystanders, medical personnel, journalists, or other unintended targets.

    g) An objectively reasonable effort has been made to extract individuals in distress.

    h) Medical assistance is promptly provided, if properly trained personnel are present, or procured, for injured persons, when it is reasonable and safe to do so.

    i) Flash-bang grenades shall not be aimed at the head, neck, or any other vital organs.

j) Flash-bang grenades shall not be used by any law enforcement agency solely due to any of the following:

i) A violation of an imposed curfew.

ii) A verbal threat.

iii) Noncompliance with a law enforcement directive.

k) Only a commanding officer at the scene of the assembly, protest or demonstration may authorize the use of flash-bang grenades.

l) Flash-bang grenades shall not be deployed for crowd control within 300 feet of the following areas if children are visibly present, unless the use is objectively reasonable to defend against a threat to life or serious bodily injury to any individual:

i) A school zone. For purposes of this section, "school zone" means an area in, or on the grounds of a public or private school providing instruction in kindergarten or grades 1-12, inclusive.

ii) A park.

iii) Any other area where children are visibly present. For purposes of this section, "child" means a person under 18 years of age.

m) Flash-bang grenades shall not be used by any law enforcement agency for the purposes of immigration enforcement, unless done as part of a joint law enforcement task force.

2) Defines "flash-bang grenades" as any less-than-lethal explosive or pyrotechnic devices that are deployed by hand or as projectiles and that produce a bright flash and loud noise intended to temporarily stun, distract, effect an arrest, or disperse a gathering of people. Flash-bang grenades include, but are not limited to, explosive or pyrotechnic devices that also emit chemical agents, kinetic energy projectiles, or shrapnel, or that are commonly referred to as blast balls, sting balls, stinger grenades, noise flash diversionary devices, concussion grenades, or stun grenades.

3) Defines "law enforcement agency" as any of the following:

a) Any department or agency of the state or any local government, special district, or other political subdivision thereof, that employs any peace officer, as defined.

b) Any federal law enforcement agency

4) Expands existing prohibitions against the use of kinetic energy projectiles and chemical agents to federal law enforcement agencies.

5) Requires each law enforcement agency, within 60 days of each incident, to publish a summary on its internet website of all instances in which a peace officer employed by that agency uses a flash-bang grenade for crowd control. Authorizes an agency to extend that period for 30 days if they demonstrate just cause, but in no case longer than 90 days from the time of the incident.

6) Specifies that for each incident reported, the summary is limited to that information known to the agency at the time of the report and includes only the following:

   a) A description of the assembly, protest, demonstration, or incident, including the approximate crowd size and the number of officers involved.

   b) The type of flash-bang grenade deployed.

   c) The number of flash-bang grenades deployed, as applicable.

   d) The number of documented injuries as a result of the flash-bang grenade deployment.

   e) The justification for using the flash-bang grenade, including any de-escalation tactics or protocols and other measures that were taken at the time of the event to de-escalate tensions and avoid the necessity of using the flash-bang.

7) Requires the DOJ to post on its internet website a compiled list linking each law enforcement agency's reports posted pursuant to the reporting requirement.

8) Prohibits any peace officer of a local, state, or federal law enforcement agency, or a person acting on behalf of such an agency, from using explosive breaching charges for the purpose of immigration enforcement unless done as part of a joint law enforcement task force.

9) Defines "explosive breaching charge" as less lethal explosive charges that are deployed by hand to effectuate the forced opening of closed or locked points of entry often through the destruction of doors, locks, hinges, windows, and frame materials. Specifies that these charges include, but are not limited to, detonating cords, sheet explosives, shaped charges, blasting caps, and detonators.

10) Defines peace officer, for the purposes of the prohibition of use for immigration enforcement, as an officer of a local, state, or federal law enforcement agency, or a person acting on behalf of a local, state, or federal law enforcement agency.

11) Includes a severability clause.

EXISTING LAW:

1) Declares the intent of the Legislature that the authority to use physical force, conferred on peace officers by existing law, is a serious responsibility that shall be exercised judiciously and with respect for human rights and dignity and for the sanctity of every human life, and that every person has a right to be free from excessive use of force by officers acting under color of law. (Pen. Code, § 835a, subd. (a)(1).)

2) Includes a legislative finding and declaration that the decision by a peace officer to use force shall be evaluated carefully and thoroughly, in a manner that reflects the gravity of that authority and the serious consequences of the use of force by peace officers, in order to ensure that officers use force consistent with law and agency policies. (Pen. Code, § 835a, subd. (a)(3).)

3) Authorizes a peace officer who has reasonable cause to believe that a person to be arrested has committed a public offense to use objectively reasonable force to effect the arrest, to prevent escape, or to overcome resistance. (Pen. Code, § 835a, subd. (b).)

4) Permits a peace officer who is authorized to make an arrest and who has stated their intention to do so, to use all necessary means to effect the arrest if the person to be arrested either flees or forcibly resists. (Pen. Code, § 843.)

5) Requires each law enforcement agency to maintain a policy that provides a minimum standard on the use of force which, among other elements, must include all of the following:

   a) A requirement that officers utilize de-escalation techniques, crisis intervention tactics, and other alternatives to force when feasible.

   b) A requirement that an officer may only use a level of force that they reasonably believe is proportional to the seriousness of the suspected offense or the reasonably perceived level of actual or threatened resistance.

   c) A requirement that officers immediately report potential excessive force to a superior officer when present and observing another officer using force that the officer believes to be beyond that which is necessary, as determined by an objectively reasonable officer under the circumstances based upon the totality of information actually known to the officer.

   d) A requirement that officers promptly provide, if properly trained, or otherwise promptly procure medical assistance for persons injured in a use of force incident, when reasonable and safe to do so.

   e) Standards and requirements relating to demonstrated knowledge and understanding of the law enforcement agency's use of force policy by officers, investigators, and supervisors.

   f) Training and guidelines regarding vulnerable populations, including, but not limited to, children, elderly persons, people who are pregnant, and people with physical, mental, and developmental disabilities. (Gov. Code, § 7286, subd. (b).)

6) Prohibits a law enforcement agency from authorizing the use of a carotid restraint, as defined, by any peace officer employed by that agency. (Gov. Code, § 7286.5, subd. (a).)

7) Prohibits a law enforcement agency from authorizing techniques or transport methods that involve a substantial risk of positional asphyxia. (Gov. Code, §7286.5, subd. (b).)

8) Generally prohibits law enforcement agencies from using kinetic energy projectiles and chemical agents, as defined, to disperse any assembly, protest or demonstration. (Pen. Code, § 13652, subd. (a).)

9) Provides that kinetic energy projectiles and chemical agents shall only be deployed by a peace officer that has received training on their proper use by POST for crowd control if the use is objectively reasonable to defend against a threat to life or serious bodily injury to any individual, including any peace officer, or to bring an objectively dangerous and unlawful

situation safely and effectively under control, and only in accordance with all of the following requirements:

a) De-escalation techniques or other alternatives to force have been attempted, when objectively reasonable, and have failed.

b) Repeated, audible announcements are made announcing the intent to use kinetic energy projectiles and chemical agents and the type to be used, when objectively reasonable to do so. The announcements shall be made from various locations, if necessary, and delivered in multiple languages, if appropriate.

c) Persons are given an objectively reasonable opportunity to disperse and leave the scene.

d) An objectively reasonable effort has been made to identify persons engaged in violent acts and those who are not, and kinetic energy projectiles or chemical agents are targeted toward those individuals engaged in violent acts. Projectiles shall not be aimed indiscriminately into a crowd or group of persons.

e) Kinetic energy projectiles and chemical agents are used only with the frequency, intensity, and in a manner that is proportional to the threat and objectively reasonable.

f) Officers shall minimize the possible incidental impact of their use of kinetic energy projectiles and chemical agents on bystanders, medical personnel, journalists, or other unintended targets.

g) An objectively reasonable effort has been made to extract individuals in distress.

h) Medical assistance is promptly provided, if properly trained personnel are present, or procured, for injured persons, when it is reasonable and safe to do so.

i) Kinetic energy projectiles shall not be aimed at the head, neck, or any other vital organs.

j) Kinetic energy projectiles or chemical agents shall not be used by any law enforcement agency solely due to any of the following:

   i) A violation of an imposed curfew.

   ii) A verbal threat.

   iii) Noncompliance with a law enforcement directive.

k) If the chemical agent to be deployed is tear gas, only a commanding officer at the scene of the assembly, protest, or demonstration may authorize the use of tear gas. (Pen. Code, § 13652, subd. (b).)

10) Requires each law enforcement agency, within 60 days of each incident, to publish a summary on its internet website of all instances in which a peace officer employed by that agency uses a kinetic energy projectile or chemical agent for crowd control. Provides that an agency may extend that period for 30 days if they demonstrate just cause, but in no case longer than 90 days from the time of the incident. (Pen. Code, § 13652.1, subd. (a).)

11) Specifies the information that must be included in the incident summary published by law enforcement agencies, and requires the Department of Justice (DOJ) to post on its internet website a compiled list linking each law enforcement agency's reports. (Pen. Code, § 13652.1, subd. (b), (c).)

12) Defines "destructive device" as including any bomb, grenade, explosive missile or similar device or any launching device therefor, among other applicable devices, weapons and ammunition types. (Pen. Code, § 16460, subd. (a)(2).)

13) Makes it a crime for any person, firm or corporation from possessing any destructive device within this state, except as specified. (Pen. Code, § 18710.)

14) Establishes other various crimes relating to the possession, use and transfer of destructive devices. (Pen. Code, §§ 18715-18780.)

15) Exempts on-duty peace officers acting within the scope and course of their employment from the above restrictions related to destructive devices. (Pen. Code, § 18800.)

FISCAL EFFECT: Unknown

COMMENTS:

1) **Sponsor:** California Community Foundation

2) **Author Statement:** According to the author: "Californians across the state have a constitutionally protected right to protest. This right has been consistently under threat in recent years, as the equipment law enforcement uses for crowd control has become increasingly militarized and dangerous. Flash-bang grenades, which emit blinding flashes of light, create overpressure, and produce extremely loud bangs, have grown in popularity as a tool of crowd control and immigration enforcement actions. Though supposedly non-lethal, flash-bangs can cause temporary blindness, deafness, and fire shrapnel or pellets that can seriously injure both users and the public, especially without proper training. A lack of regulation, transparency, and training also extends to explosive breaching devices, often used by law enforcement to blow open doors and windows, and posing similar safety risks."

   "The Legislature has already taken steps to curtail other dangerous crowd control devices, such as tear gas, rubber bullets, and beanbag rounds. SB 937 extends these existing restrictions and training requirements to flash-bang grenades, and it bars use of explosive breaching devices for immigration enforcement. This measure is vital to ensuring the safety of both citizens exercising their right to protest and law enforcement agents in the field."

3) **Recent uses of "Less than Lethal" Munitions for Crowd Control:** Law enforcement officers utilize a range of "less lethal" munitions in order to compel compliance, disperse gatherings, or incapacitate individuals during crowd control incidents. These weapons and devices include several broad categories, including kinetic energy projectiles (such as rubber bullets or beanbag rounds), chemical agents or irritants (such as pepper spray and tear gas) and other disorientation or incapacitation devices, including everything from long-range acoustic devices, water cannons, and flash-bang grenades. Although dubbed "less lethal," these weapons are capable of causing serious injury and even death in rare cases, especially when they are used at close range or against vulnerable individuals. Flash-bang grenades, the

subject of this bill, have been found to carry unique and significant risks. According to a recent report published jointly by a trio of human rights organizations:

> Disorientation devices, also known as "flashbangs" or stun grenades, create a loud explosion and, in some instances, a bright flash of light. They are made of both metal and plastic parts that may fragment during the explosion and therefore carry risks of blast injuries to targeted individuals and bystanders. Explosions that occur close to people have led to amputation, fractures, burns and death. Additionally, the ability to precisely place these thrown devices is questionable, especially when used in protest settings. There are frequent news reports and anecdotal evidence of injuries and deaths from these weapons, including reports of injuries to military, corrections, and other law enforcement officials while handling these devices.[1]

Recent incidents involving the use of flash-bang grenades by law enforcement – primarily in the context of large-scale protests against federal immigration enforcement efforts – have brought these risks to the forefront of public discourse. In early June 2025, Immigration and Customs Enforcement (ICE) work raids at several restaurants in San Diego ended with federal agents using flash-bang grenades against residents protesting the operations in an attempt to disperse the crowd. ("ICE agents with assault rifles toss flash-bangs in trendy San Diego neighborhood. Community fights back." *Los Angeles Times*. 2 June 2025. ICE agents with assault rifles toss flash-bangs in San Diego neighborhood. City officials outraged - Los Angeles Times) These events were the subject of recent litigation between a group of protestors, journalists and legal observers and the federal agencies that deployed crowd control munitions against them. The judge in that case ultimately enjoined the defendant federal agencies from using crowd control weapons – including kinetic impact projectiles, chemical irritants and flash-bang grenades – against members of the press, legal observers, and protestors who are not themselves posing a threat of imminent harm to ta law enforcement officer or another person. (*L.A. Press Club v. Noem* (2025) 799 F.Supp.3d 1036.) The same month, during the "No Kings" protests in downtown Los Angeles, a protestor lost two fingers after a flash-bang grenade deployed by Los Angeles County Sheriff's Office deputies detonated next to him, blowing off one finger and requiring another to be amputated later.[2] According to the author, events such as these are the reason for the introduction of this bill.

4) **Existing Law Regarding Use of Force and Less Lethal Munitions for Crowd Control:** In 1989, the U.S. Supreme Court set the standard for reasonable use of force in law enforcement. The general rule for how much force a law enforcement officer can use in response to a given situation is determined by a reasonableness test, requiring the careful balancing of the force against the countervailing government interest at stake. (*Graham v. Connor* (1989) 490 U.S. 386, 396. The central question is whether the amount and type of force applied was reasonably necessary in light of the police need to prevent the subject from engaging in whatever conduct it was that they were engaging in at the time the force was

---

[1] "Lethal In Disguise 2: How Crowd-Control Weapons Impact Health and Human Rights." Published by the International Network of Civil Liberties Organizations and Physicians for Human Rights in collaboration with the Omega Research Foundation. March 2023, p.13. REPORT-Lethal-in-Disguise-2-PHR-INCLO-March-2023.pdf.
[2] "Law enforcement violating rules on less-lethal weapons in ICE protests, critics say." *Los Angeles Times*. 11 July 2025. Less-lethal weapons cause physical, psychological harm, critics say - Los Angeles Times.

used. Three important factors to that test are: 1) the severity of the crime at issue; 2) whether the suspect poses an immediate threat to the safety of the officers or others; and 3) whether the person is actively resisting arrest or attempting to evade arrest by flight. With specific regard to "flash-bangs" the Ninth Circuit held in *Boyd v. Benton County* (2004) 374 F.3d 773 that:

There are likely circumstances in which a risk to officers' safety would make the use of a flash-bang device appropriate. And we recognize that less-than-lethal alternatives are intended to avoid unnecessary fatalities. Nonetheless, given the inherently dangerous nature of the flash-bang device, it cannot be a reasonable use of force under the Fourth Amendment to throw it "blind" into a room occupied by innocent bystanders absent a strong governmental interest, careful consideration of alternatives and appropriate measures to reduce the risk of injury.

In 2019, California refined its use of force statutes in order to provide clearer guidance to law enforcement and the public, specifically regarding the when the use of deadly force is appropriate. Namely, AB 392 (Weber), Chapter 170, Statutes of 2019, specified the circumstances in which deadly force is and is not appropriate, and SB 230 (Caballero), Chapter 285, Statutes of 2019, required law enforcement agencies to update their training and policies with specific requirements regarding use of force, including a requirement that an officer may only use a level of force that they reasonably believe is proportional to the seriousness of the suspected offense or the reasonably perceived level of actual or threatened resistance. (Gov. Code, § 7286, subd. (b).)

A couple of years later, in the wake of the nationwide protests sparked by the murder of George Floyd in Minneapolis, the Legislature passed additional legislation aimed at limiting how law enforcement may deploy certain tactics. One such measure was AB 48 (Gonzalez), Chapter 404, Statutes of 2021, enacting Penal Code section 13652, which generally prohibited law enforcement agencies from using kinetic energy projectiles and chemical agents to disperse any assembly, protest or demonstration.

5) **Expanding prohibition to flash-bang grenades:** Flash-bang grenades are less than lethal explosive or pyrotechnic devices that are deployed by hand or as projectiles that produce a bright flash and loud noise intended to temporarily stun, distract, effect and arrest, or disperse a gather of people. This bill incorporates flash-bang grenades into the existing framework for the prohibition on use of non-lethal munitions to disperse any assembly, protest, or demonstration. and expands its applicability to include federal law enforcement agencies. The bill expands when any of the non-lethal munitions may be used to include not only when an officer has been trained by POST in crowd control but also if they had training in special weapons or tactics certified by an entity equivalent to POST.

   In addition to the crowd control prohibition in general, this bill provides specifically that they should not be used within 300 feet of a school zone, park, or other areas where children under 18 are visibly present unless the use is objectively reasonable to defend against a threat to life or serious bodily injury of any individual. The standard of reasonable to defend against a threat to life or serious bodily injury of any individual is the same standard as lethal force, so is it appropriate that the standard be the same for lethal and non-lethal force in circumstances where children are present?

The use of flash-bang grenades shall also be included in the published summaries on the use of non-lethal force.

6) **Prohibition on using flash-bang grenades or explosive breaching charges for immigration enforcement:** This bill also prohibits peace officers from using flash bang grenades or explosive breaching charges for the purpose of immigration enforcement unless done as part of a joint law enforcement task force authorized under the Government Code. Explosive breaching charges are less than lethal charges that are used to effectuate the forced entry into locked doors, windows, etc.

7) **Inclusion of Federal Officers:** This bill includes federal officers in the definition of peace officers in both provisions of this bill.

The regulation of federal agencies and officers raises issues the Supremacy Clause of the U.S. Constitution. State laws that conflict with federal laws or attempt to regulate the federal government may be invalided for several reasons. The Supremacy Clause of the U.S. Constitution provides that federal law "shall be the supreme Law of the Land; and the Judges in every State shall be bound thereby, any Thing in the Constitution or Laws of any State to the Contrary notwithstanding." (U.S. Const., Art. VI, Cl 2.) The doctrine of intergovernmental immunity is derived from the Supremacy Clause of the Constitution, and 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, 879.) 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." "A state or local law discriminates against the federal government if it treats someone else better than it treats the government." (*N.D. v. United States* (1990) 495 U.S. 423, 435 and *Boeing Co. v. Movassaghi* (9th Cir. 2014) 768 F.3d 832, 839) However, it is well settled that generally applicable state laws can apply to federal entities. (*United States ex rel. Drury v. Lewis*, 200 U.S. 1, 7-8 (1906); Johnson v. Maryland, 254 U.S. 51, 56 (1920).)

A related doctrine is conflict preemption, whereby state laws that conflict with federal law are preempted, which "includes cases where compliance with both federal and state regulations is a physical impossibility, and those instances where the challenged state law stands as an obstacle to the accomplishment and execution of the full purposes and objectives of Congress." (*U.S. v. California*, (2019) 921 F.3d 865 at pp. 878-879; *Arizona v. United States*, 567 U.S. 387, 399 (2012).) For example, in *United States v. California* (2019) 921 F.3d 865, the Ninth Circuit Court of Appeals upheld the provisions of the California Values Act relating to law enforcement cooperation with ICE. The court of appeals had "no doubt that SB 54 makes the jobs of federal immigration authorities more difficult." (*Id.* at 886) However, the court concluded that "this frustration does not constitute obstacle preemption," because federal law "does not require any particular action on the part of California or its political subdivisions." The court reasoned that "even if SB 54 obstructs federal immigration enforcement, the United States' position that such obstruction is unlawful runs directly afoul of the Tenth Amendment and the anticommandeering rule," and that "California has the right, pursuant to the anticommandeering rule, to refrain from assisting with federal efforts." (*Id.* at 888-891) The court concluded that SB 54 does not violate the United States' intergovernmental immunity for similar reasons.

The provisions of this bill seeking to regulate federal agencies and their agents will undoubtedly be subject legal challenge under the doctrines of intergovernmental immunity and conflict preemption. Though the outcome of such a claim is unclear and dependent on several factors, a recent decision from the U.S. District Court for the Central District of California, which assessed the constitutionality of SB 627 (Wiener), Chapter 125, Statutes of 2025, and SB 805 (Perez), Ch apter 126, Statutes of 2025, provides some useful guidance. (The *United States of America v. State of California et al* (2026) Case No. 2:25-cv-10999-CAS-AJRx.) SB 627 prohibited local and federal law enforcement officers from wearing certain facial coverings in the performance of their duties, and SB 805 required local, state, and federal officers to visibly display identification, including a name or badge number and their agency, when performing their duties. The court ultimately concluded, analyzing the statues under the intergovernmental immunity doctrine, that:

> [SB 805] does not violate the Supremacy Clause by directly regulating the federal government. Further, because it does not treat federal officers differently from state officers, [SB 805] does not discriminate against the federal government. [...] With regard to SB 627 [...] the United States has failed to demonstrate that the facial covering prohibition directly regulates the federal government. The Court finds that federal officers can perform their federal functions without wearing masks. However, because [SB 627] as presently enacted does not apply equally to all law enforcement officers in the state, it unlawfully discriminates against federal officers. Because such discrimination violates the Supremacy Clause, the Court is constrained to enjoin the facial covering prohibition.(*Id.* 19-20)

Given the court's reasoning in this case, the success of a Supremacy Clause challenge to this bill may turn on whether the less lethal munitions in question are so essential to federal law enforcement as to interfere with or control federal law enforcement functions. If they are as or less essential to such functions as the masking and identification practices at issue in *U.S v. State of California* were, because the bill does not appear to discriminate against federal law enforcement (i.e., applies equally to local, state, and federal law enforcement), it is possible that the bill would survive a Supremacy Clause challenge.

8) **Argument in Support:** According to the *Ella Baker Center for Human Rights*, "In June 2025, protests against the current federal administration were organized across the country, drawing over 5,000 attendees in Los Angeles alone. Though these protests started peacefully, excessive misuse of crowd control equipment contributed to injuries of both attendees and law enforcement. Flash-bang grenades, also known as stun grenades, have recently grown in popularity as crowd control devices during large-scale protests. Flash-bangs emit a loud bang and a blinding flash of light when deployed and can also throw shrapnel or rubber balls. Though classified as 'less lethal', these grenades pose safety risks to both the user and protestors. Eardrum rupture, lung injuries, fractures, and hemorrhaging are just a few of the reported injuries caused by flash-bangs.

"Last June, a man attending a protest in Los Angeles was hit by flash-bang shrapnel while observing, resulting in the loss of a finger. Premature deployment of flash-bangs can also seriously injure users– in 2024, an officer in New York suffered extensive injuries to his hand after a flash-bang detonated while he was holding it.

"Explosive breaching charges, or high-velocity explosive devices, are used by law enforcement to rapidly break open a door or window, usually during a raid. Use of these devices can cause serious injuries for all involved parties, ranging from hearing loss and burns to long-term traumatic brain injuries. In June 2025, federal immigration agents in Huntington Park endangered a mother and her two children when they used an explosive breaching charge to blow the windows off a home while they were inside. The suspect in question was not present and posed no imminent threat to the officers.

"California currently restricts the use of some military weaponry that is commonly used for crowd control, including tear gas and kinetic energy projectiles (KEPs) like rubber bullets and beanbag rounds, and requires proper training for their use, but has no training requirement or restrictions on the circumstances under which flash-bangs or explosive breaching devices can be used by law enforcement. Lack of proper training and reporting on the use of these devices undermines the safety of police officers and public trust of law enforcement.

"SB 937 adds flash-bang grenades to the existing restrictions on other less-lethal crowd control devices and prohibits their use, alongside explosive breaching devices, for the purposes of immigration enforcement. The bill also requires any user of a flash-bang to receive training from the Commission on Peace Officer Standards and Training before use. This measure is vital to maintaining both the safety of citizens exercising their right to protest and that of police officers in the field."

9) **Argument in Opposition:** According to the *California Peace Officers' Association*, "SB 937 establishes a categorical ban on the use of flashbang devices in areas where children may be present, regardless of the nature or severity of the threat. This blanket prohibition fails to account for the realities faced by law enforcement officers responding to violent, rapidly evolving situations.

"Flashbang devices are a carefully controlled tool designed to disorient and distract, often allowing officers to de-escalate situations and take individuals into custody without resorting to lethal force. By removing this option entirely—even in life-threatening circumstances—SB 937 may inadvertently increase the likelihood of more severe uses of force, placing both officers and the public at greater risk.

"SB 937 also includes provisions related to immigration enforcement, despite the existence of a well-established statutory framework governing these issues. Senate Bill 54 (2017) already provides clear and comprehensive guidance regarding local law enforcement's role in immigration matters.

"The additional restrictions proposed in SB 937 are duplicative and risk creating confusion, inconsistency, and potential conflict with existing law. Rather than enhancing protections, these provisions may complicate compliance and divert attention from established policies that agencies have successfully implemented statewide.

"Perhaps most concerning, SB 937 imposes sweeping, categorical restrictions without allowing for the exercise of professional judgment based on the totality of the circumstances. Law enforcement officers are routinely required to make split-second decisions in high-risk environments where lives are at stake.

"Policies governing use of force must be grounded in objective reasonableness and allow for necessary discretion. By substituting inflexible prohibitions for this well-established standard, SB 937 undermines officers' ability to respond appropriately to dynamic and dangerous situations, potentially leading to worse outcomes for all involved.

"The California Peace Officers' Association strongly supports policies that enhance safety, accountability, and public trust. However, SB 937, as drafted, removes critical tools, duplicates existing law, and restricts the reasonable discretion officers need to protect lives."

10) **Prior Legislation:**

a) SB 627 (Wiener), Chapter 125, Statutes of 2025, made it a crime for law enforcement to wear facial cover in gin performance in their duties. SB 627 is currently being litigated.

b) AB 400 (Pacheco), of the 2025-2026 Legislative Session, would have required POST to study the use of canines by law enforcement. AB 400 was vetoed by the Governor.

c) AB 490 (Gipson), Chapter 407, Statutes of 2021, prohibits law enforcement from authorizing techniques or transport methods that involve a substantial risk of positional asphyxia.

d) AB 48 (Gonzalez), Chapter 404, Statutes of 2021, prohibited the use of kinetic energy projectiles and chemical agents by law enforcement to disperse any assembly, protest, or demonstration except as specified.

e) AB 1196 (Gipson), Chapter 324, Statutes of 2020, prohibited a law enforcement agency from authorizing the use of a carotid restraint or a choke hold.

f) AB 392 (Weber), Chapter 170, Statutes of 2019, specified the circumstances in which deadly force by law enforcement is and is not appropriate.

g) SB 230 (Caballero), Chapter 285, Statutes of 2019, required law enforcement agencies to update their training and policies with specific requirements regarding use of force, including a requirement that an officer may only use a level of force that they reasonably believe is proportional to the seriousness of the suspected offense or the reasonably perceived level of actual or threatened resistance.

REGISTERED SUPPORT / OPPOSITION:

Support

ACLU California Action
All of US or None (HQ)
American Friends Service Committee
Berkeley Friends Meeting
California Community Foundation
California Immigrant Policy Center
California Public Defenders Association
Coalition for Humane Immigrant Rights (CHIRLA)

Coalition for Humane Immigrant Rights of Los Angeles
Courage California
Ella Baker Center for Human Right
Ella Baker Center for Human Rights
Felony Murder Elimination Project
Initiate Justice
Latino Equality Alliance
Lawyers Committee for Civil Rights of the San Francisco Bay Area
League of Women Voters of California
Legal Services for Prisoners With Children
Oakland Privacy
Policing Project At Nyu Law School
Public Counsel
Rubicon Programs
San Francisco Public Defender
Sister Warriors Freedom Coalition
Western Center on Law & Poverty
Western Center on Law and Poverty

Oppose

Association for Los Angeles Deputy Sheriffs
Association for Los Angeles Deputy Sheriffs (ALADS)
California Association of Highway Patrolmen
California Narcotic Officers' Association
California Peace Officers' Associaiton
California Police Chiefs Association
California State Sheriffs' Association
Los Angeles County Professional Peace Officers Association
Los Angeles Police Protective League
Peace Officers Research Association of California (PORAC)

Analysis Prepared by: Mary Kennedy / PUB. S. / (916) 319-3744

Date of Hearing: June 23, 2026
Counsel: Ilan Zur

ASSEMBLY COMMITTEE ON PUBLIC SAFETY
Nick Schultz, Chair

SB 938 (Menjivar) – As Amended June 16, 2026

SUMMARY: Makes certain United States Immigration and Customs Enforcement (ICE) officers ineligible for specified peace officer training waivers. Specifically, **this bill**:

1) Prohibits any individual hired as a sworn federal law enforcement officer for the purposes of detention operations or removal operations by ICE on or after January 1, 2025, from being eligible to apply for any Regular Basic Course Waiver, including the specialized waiver training, as specified in California Regulations relating to minimum standards for peace officer training, or any successor regulation.

2) Makes legislative findings and declarations.

EXISTING LAW:

1) Requires every person described as a peace officer to satisfactorily complete an introductory training course established by the Commission on Peace Officer Standards and Training (POST). (Pen. Code, § 832, subd. (a).)

2) Requires POST to adopt rules establishing minimum standards relating to the recruitment, training, and fitness of state and local law peace officers. (Pen. Code, §§ 13510, 13510.5.)

3) Requires POST to establish a certification program for certain classes of peace officers. (Pen. Code, § 13510.1, subd. (a).)

4) Establishes basic, intermediate, advanced, supervisory, management, and executive certificates for the purpose of fostering professionalization, education, and experience necessary to adequately accomplish the general police service duties performed by certain peace officers. (Pen. Code, § 13510.1, subd. (b).)

5) Requires certificates to be awarded based on training, education, experience, and other prerequisites, as determined by POST. (Pen. Code, § 13510.1, subd. (c)(1).)

6) Authorizes persons determined by POST to be eligible peace officers to apply for the certificates, provided they are employed by an agency that participates in the POST program. (Pen. Code, § 13510.1, subd. (d).)

7) States that notwithstanding any other law, POST shall have the authority to suspend, revoke, or cancel any certification, as specified, and this authority extends to any certificate or proof of eligibility issued by POST, as specified. (Pen. Code, § 13510.1, subd. (f).)

8) Requires an agency that employs certain classes of peace officers to employ as a peace officer only individuals with current, valid certification, except an agency may employ a person for up to 24 months, pending certification by POST, if the person has received proof of eligibility and has not previously been certified, denied certification, or had their certification revoked. (Pen. Code, § 13510.1, subd. (g)(1).)

9) Authorizes POST to issue a basic certificate or proof of eligibility to specified peace officers, who, on January 1, 2022, are eligible for a basic certificate or proof of eligibility but have not applied for a certification. (Pen. Code, § 13510.1, subd. (h)(1).)

10) Requires specified peace officers who do not possess, and are not eligible for, a basic certificate to apply to POST for proof of eligibility. (Pen. Code, § 13510.1, subd. (h)(2).)

11) Disqualifies specified persons from being employed as a peace officer, including any person convicted of a felony, any person who has been issued a peace officer certification and has had that certification revoked by POST, and specified federal or out-of-state law enforcement officers who have committed serious misconduct. (Gov. Code, § 1029, subd. (a)(1)-(11).)

12) Permits individuals with qualifying federal or out-of-state law enforcement experience to receive waivers from certain peace officer training requirements, as follows:

    a) Establishes the Basic Course Waiver (BCW) which provides an exemption from the Regular Basic Course or Specialized Investigator Basic Course training requirements. (Cal. Code Regs., tit. 11, § 1005, subd. (a)(1)(C).)

    b) Permits a BCW to be granted to individuals with qualifying out-of-state or federal law enforcement experience, whose law enforcement training, experience, and education are deemed by POST to demonstrate sufficient law enforcement knowledge, skill, and proficiency. (Cal. Code Regs., tit. 11, § 1005, subd. (a)(1)(C).)

    c) Makes acceptance of the basic course waiver instead of successful completion of the regular basic course or specialized investigator basic course at the discretion of the employing agency. (Cal. Code Regs., tit. 11, § 1005, subd. (a)(1)(C).)

    d) States that the basic course waiver does not determine an individual's employability nor is it a means of requalifying training, and that individuals with prior California law enforcement experience are not eligible for the basic course waiver and must complete requalification, as specified. (Cal. Code Regs., tit. 11, § 1005, subd. (a)(1)(C).)

    e) Requires, to be eligible for a basic course waiver, an individual to meet the following training, education, and experience requirements:

        i) Successful completion of a 400-hour minimum basic general law enforcement training course certified or approved by POST or a similar standards agency of another state, or a federal agency general law enforcement basic course.

        ii) At least 664 hours of general law enforcement training, as specified.

        iii) Legislatively mandated training included in the POST-certified regular basic course.

iv) At least two years of continuous full-time out-of-state experience performing general law enforcement duties with one agency, and requires the experience to have been acquired after the completion of basic training. (Cal. Code Regs., tit. 11, § 1005, subd. (a)(1)(C)(1.)(a).)

f) Establishes specified training, education, and experience requirements to be eligible for the specialized investigator's basic course waiver. (Cal. Code Regs., tit. 11, § 1005, subd. (a)(1)(C)(1.)(b).)

g) Establishes a four-step process for determining a basic course waiver: 1) application/self assessment, documentation, and fee requirements; 2) POST training evaluation; 3) basic course waiver assessment; and 4) waiver issuance, as specified. (Cal. Code Regs., tit. 11, § 1005, subd. (a)(1)(C)(2).)

FISCAL EFFECT: Unknown.

COMMENTS:

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

2) **Author's Statement**: According to the author, "It is the duty of the State of California to ensure that our law enforcement officers are held to the highest standards, training, and qualifications. Most law enforcement agencies have built long-lasting trust with the communities in which they serve, and this bill seeks to protect that trust. The federal government has modified and accelerated its training to a 6-week program to meet its aggressive hiring efforts. As a result we have seen various reports documenting patterns of misconduct and harmful enforcement practices associated with Immigration and Customs Enforcement operations across California and nationwide. These individuals appear to have no regard for the rule of law and lack the necessary training to qualify for lateral waivers.

   "SB 938, as amended, ensures that a sworn federal law enforcement officer hired by the United States Immigration and Customs Enforcement on or after January 20, 2025, cannot apply for any required Basic Course Waivers, including the specialized training waiver. This ensures they are held to the same standards as our current local law enforcement and undergo the same rigorous training."

3) **Background: Federal Immigration Enforcement Efforts.** Immigration arrests have significantly increased since President Trump's second term began.[1] ICE removals in California were substantially similar to the numbers from the previous year in the first few months of Trump's second term; however, beginning in the summer of that year, removals significantly ramped up.[2] Data indicates that ICE deported at least 8,250 people from California in the first nine months of 2025.[3] From June 6 to June 22, 2025, federal

---

[1] Sun, *Immigration Arrests Are Up Sharply in Every State. Here Are the Numbers*, N.Y. Times (June 27, 2025) <https://www.nytimes.com/interactive/2025/06/27/us/ice-arrests-trump.html> [as of May 4, 2026].
[2] Miranda, *ICE deportations in California surged in the thousands as 2025 went on*, Sac. Bee (Jan. 12, 2026) <https://www.sacbee.com/news/california/article314213552.html> [as of May 4, 2026].
[3] *Ibid.*

immigration enforcement teams arrested 1,618 immigrants for deportation in Los Angeles and the surrounding Southern California regions.[4] In September and October of 2025, federal immigration officers arrested more than twice as many people in the region of San Diego as they did in the entirety of 2024.[5] In response to the protests, President Trump deployed National Guard troops and Marines to L.A. over the objections of state officials.[6]

Such aggressive immigration enforcement efforts have resulted in an uptick in immigration-enforcement-related deaths, including the January 24, 2026, shooting of Alex Pretti by U.S. Customs and Border Protection (CBP) officers.[7] Recent reporting found that it is the deadliest year for those in immigration detention in over two decades.[8] Since October 23, 2025, more people have died in ICE custody than in the entire prior fiscal year.[9] The rapid increase in immigration arrests has contributed to overcrowding, unsanitary conditions, and issues related to healthcare and food access in detention centers.[10]

The increase in federal immigration enforcement under the Trump Administration has also been associated with aggressive federal recruitment efforts, including efforts to recruit California peace officers to join federal immigration agencies.[11] ICE has taken steps to significantly expand hiring, including offering $50,000 signing bonuses, student loan forgiveness, lowering the age limit for recruits from 21 to 18, and waiving the 37-year-old hiring cap, among others.[12] This has raised concerns that California peace officers may leave their roles to pursue employment in federal immigration enforcement, and alternatively, that there is little preventing federal immigration officers from applying to become California peace officers.

4) **Peace Officer Qualifications:** To become a peace officer, a person must meet certain minimum standards: 1) they are legally authorized to work in the U.S. under federal law; 2) are at least 18 years of age; 3) are fingerprinted for purposes of searching local, state, and national fingerprint files to disclose a criminal record; 4) are of good moral character, as determined by a thorough background investigation; 5) are a high school graduate or other specified educational achievements; and 6) are free from any physical, emotional, or mental condition, including bias against race, ethnicity, gender, nationality, religion, disability, or sexual orientation, that might adversely affect he exercise of peace officer powers. (Gov. Code, § 1031, subds. (a)-(f).)

---

[4] Castillo, *More than 1600 immigrants detained in Southern California this month, DHS says*, L.A. Times (June 25, 2025) <https://www.latimes.com/politics/story/2025-06-25/more-than-1-600-immigrants-detained-in-southern-california-this-month-dhs-says> [as of May 4, 2026].
[5] Fry et al., *Immigration Arrests surge by 1,500% in San Diego: 'I feel the temperature rising'*, CalMatters (Jan. 29, 2026) <https://calmatters.org/justice/2026/01/san-diego-immigration-arrest-surge/> [as of May 4, 2026].
[6] Hutchinson, *LA protests timeline: How ICE raids sparked demonstrations and Trump to send in the military*, ABC News (June 11, 2025) <https://abcnews.go.com/US/timeline-ice-raids-sparked-la-protests-prompted-trump/story?id=122688437> [as of May 4, 2026].
[7] McSwane, *Two CBP Agents Identified in Alex Pretti Shooting*, ProPublica (Feb. 1, 2026) <https://www.propublica.org/article/alex-pretti-shooting-cbp-agents-identified-jesus-ochoa-raymundo-gutierrez> [as of May 4, 2026].
[8] Bustillo et al., *Immigration detention on track for deadliest fiscal year since 2004*, NPR (March 10, 2026) <https://www.npr.org/2026/03/10/g-s1-111238/immigration-detention-deaths-custody> [as of May 4, 2026].
[9] *Ibid.*
[10] *Ibid.*
[11] Sharp, et.al., *ICE offers big bucks – but California police officers prove tough to poach*, Los Angeles Times (Sept. 22, 2025) <https://www.latimes.com/california/story/2025-09-22/ice-poaching-cops> [as of June 16, 2026].
[12] Ray and Sanchez, *ICE expansion has outpaced accountability. What are the remedies?* Brookings (Jan. 26, 2026) <https://www.brookings.edu/articles/ice-expansion-has-outpaced-accountability-what-are-the-remedies/> [as of June 16, 2026].

For purposes of conducting thorough background investigations for peace officer applicants, employers are required to disclose employment information about an employee, upon request of an LEA, subject to certain conditions. (Gov. Code, § 1031.1, subd. (a).) Disclosable employment information includes performance evaluations, disciplinary actions, eligibility for rehire, and other information relevant to the performance of a peace officer, except as specified. (Gov. Code, § 1031.1, subd. (c).) For example, if a former ICE officer applied to become a peace officer, and a background investigation, including a review of prior employment information such as disciplinary records, demonstrated a propensity for racial bias, that officer may fail to meet California's minimum standards to become a peace officer.

In addition to these minimum standards, certain factors, such as a felony conviction and certain misconduct, disqualify a person from becoming a peace officer. Among other disqualification grounds, any of the following disqualifies a person from being employed as a peace officer: 1) a felony conviction; 2) a conviction of, or adjudication through an administrative, military, or civil judicial process requiring at least clean and convincing evidence that a person committed specified forgery, tampering, witness intimidation, and other offenses against public justice, as specified; 3) POST revocation of peace officer certification, as specified; and 4) revocation of certification and being listed in the National Decertification Index for any person previously employed in law enforcement in any state or by the federal government or committing serious misconduct that would have resulted in revocation of certification by POST if employed as a peace officer in this state. (Gov. Code, § 1029, subd. (a)(1)-(11).) Notably, this last basis for disqualification, which is specific to federal and out-of-state officers, allows for disqualification of a federal or out-of-state law enforcement officer because of misconduct committed in their prior law enforcement role.

In sum, peace officer applicants must be vetted for moral character, and there is a statutory avenue to disqualify persons who committed serious misconduct while previously employed in law enforcement in any state or by the federal government. However, effectively vetting moral character and disqualifying officers based on prior misconduct may be difficult if the previous law enforcement employer does not make efforts to hold their officers accountable for misconduct or maintain records of such misconduct.

5) **Peace Officer Training and Waivers:** Peace officers are required to satisfactorily complete an introductory training course established by POST. (Pen. Code, § 832.) The POST-certified Regular Basic Course is the training standard that governs police officers, deputy sheriffs, and school district police officers, among others.[13] It includes a minimum of 680 hours of POST-training, broken down into 43 Learning Domains.[14] This includes a variety of written, skill, exercise, and scenario-based training and testing.[15] POST additionally offers a specialized investigator's basic course, an entry-level training requirement for certain California investigators, which requires a minimum of 591 hours of training, and includes investigator-specific training such as investigative case management and surveillance.[16]

---

[13] POST, Peace Officer Basic Training <https://post.ca.gov/peace-officer-basic-training> [as of June 15, 2026].
[14] *Ibid.*
[15] *Ibid.*
[16] POST, Specialized Investigator's Basic Course <https://post.ca.gov/specialized-investigators-basic-course> [as of June 15, 2026].

Under California law, training waivers may be granted to individuals with qualifying out-of-state or federal law enforcement experience, whose law enforcement training, experience, and education are deemed by POST to demonstrate sufficient law enforcement knowledge, skill, and proficiency. (Cal. Code Regs., tit. 11, § 1005, subd. (a)(1)(C).) The rules governing such waivers are largely established by POST Regulations, rather than statute. There are two types of basic course waivers: the regular basic course waiver and the specialized investigators' basic course waiver.[17] Waiver applicants must complete an application process to receive such a waiver. (*Ibid.*) Employing law enforcement agencies have discretion over whether to accept a waiver. (Cal. Code Regs., tit. 11, § 1005, subd. (a)(1)(C).)

Securing a basic course waiver requires a showing of certain training and experience. Eligibility for the basic course waiver requires that the applicant satisfy the following: 1) completion of a 400-hour minimum basic general law enforcement training course approved by POST or a similar standards agency of another state, or a federal agency general law enforcement basic course; 2) have at least 664 hours of general law enforcement training; 3) complete the legislatively mandated training included in the POST-certified regular basic course; and 4) have at least two years of continuous full-time out-of-state experience performing general law enforcement duties with one agency. (Cal. Code Regs., tit. 11, § 1005, subd. (a)(1)(C)(1.)(a).) Further, there cannot be more than a six-year break from the applicant's last peace officer employment before the application for the waiver, and the applicant must attest that they are leaving their previous law enforcement employer in good standing. (Cal. Code Regs., tit. 11, § 1005, subd. (a)(1)(C)(2).) The applicant must also review grounds for disqualification under California law and verify that they are unaware of any reason why they would be denied future certification as a peace officer. (*Ibid.*)

Once an applicant has applied, POST conducts a training evaluation, and once the above components are completed, the waiver applicant is then required to attend a 161-hour Requalification course[18] in person, unless they meet specified test-only criteria. (Cal. Code Regs., tit. 11, § 1005, subd. (a)(1)(C)(2).) Once the waiver is issued, it is valid for three years.[19]

6) **Effect of this bill:** SB 938 seeks to ensure that certain federal immigration officers who subsequently seek employment as a California peace officer must complete the entirety of California peace officer training requirements by making those federal officers ineligible for a waiver from California's basic course of training or specialized investigator training. Specifically, the bill prohibits any individual hired as a sworn federal law enforcement officer for detention operations or removal operations by ICE from being eligible to apply for any Regular Basic Course Waiver, including the specialized waiver training. This prohibition would apply to individuals hired on or after January 1, 2025, encompassing individuals hired by ICE two years before the effective date of this bill.

The scope of this bill is relatively narrow. It only applies to ICE officers hired after January 1, 2025, and particularly, only ICE law enforcement officers hired to engage in detention or removal operations. While this may limit the number of impacted individuals, it is worth noting there are other component agencies within the Department of Homeland Security

---

[17] POST, Basic Course Waiver <https://post.ca.gov/basic-course-waiver-process> [as of June 15, 2026].
[18] *Ibid.*
[19] *Ibid.*

(DHS), such as CBP, that engage in immigration enforcement. For example, it was CBP officers who killed Alex Pretti on January 24, 2026.[20]

ICE officer training and experience may already be insufficient, in and of itself, to establish eligibility to secure a basic course waiver. As previously noted, to be eligible for a POST basic course waiver, a person must, among other things, have completed "a 400-hour minimum basic general law enforcement training course" and have "[a]t least two years of continuous full-time out-of-state experience performing 'general law enforcement duties' with one agency." (Cal. Code Regs., tit. 11, § 1005, subd. (a)(1)(C)(1.)(a).) General law enforcement duties are defined to mean duties which include investigation of crime, patrol of a geographic area, responding to the full range of requests for police services, and performing any enforcement action on the full range of law violations. (Cal. Code Regs., tit. 11, § 1001, subd. (25).) Similarly, to be eligible for a waiver from the specialized investigator's basic course waiver, an individual must have at least two years of continuous full-time out-of-state or federal investigative experience, or performance of general law enforcement duties, with one out-of-state or federal agency. (Cal. Code Regs., tit. 11, § 1005, subd. (a)(1)(C)(1.)(b.).)

California regulations do not explicitly address the sufficiency of ICE officer training and experience for waiver eligibility. However, POST's published Regular Basic Course of Training Application informally excludes "Military Basic, Military Police, and specialized training (e.g. *U.S. Customs, Border Patrol*, INS, FBI, DEA)" from counting towards the minimum 400 hours of general law enforcement basic training required for a basic course waiver.[21] While this does not specifically mention ICE, it suggests that specialized immigration enforcement training may be insufficient to satisfy the minimum basic training hours needed to be eligible for a basic course waiver.

It is less clear if federal immigration law enforcement experience qualifies as "general law enforcement duties" experience to secure a basic course waiver. One of the requirements of "general law enforcement duties" experience is that the officer respond to "the full range of requests for police services" and perform enforcement actions on "the full range of law violations." (Cal. Code Regs., tit. 11, § 1001, subd. (25).) ICE officers' duties are specific to immigration enforcement, which could indicate that such specialized experience may not rise to the level of general response to police service requests, for purposes of meeting the minimum experience requirements to be eligible for a POST basic course waiver. On the other hand, California statutes and POST regulations do not expressly exclude federal immigration enforcement experience from the definition of "general law enforcement duties." According to POST online materials, "general law enforcement experience" excludes deputies with corrections experience only, federal police officers, as specified, and military police.[22] In practice, an ICE officer's eligibility for a basic course waiver may depend on the particular training and experience of the individual officer. This bill remedies some of this uncertainty by making it explicit that recently hired ICE officers who engage in

---

[20] McSwane, *Two CBP Agents Identified in Alex Pretti Shooting*, ProPublica (Feb. 1, 2026) <https://www.propublica.org/article/alex-pretti-shooting-cbp-agents-identified-jesus-ochoa-raymundo-gutierrez> [as of June 17, 2026].
[21] POST, Regular Basic Course Waiver Application (March 2026) <https://post.ca.gov/portals/0/post_docs/resources/RBCW_Overview_Instructions.pdf> [as of June 16, 2026] (emphasis added).
[22] Basic Course Waiver, *supra*.

detention or removal options cannot apply for a POST basic course waiver or specialized investigator waiver.

The author may wish to consider whether this waiver prohibition should be based upon an individual being hired by ICE during the applicable time period, or whether it should exclude certain specialized federal immigration enforcement training and experience from the type of training and experience that can count towards waiver eligibility. Currently, the bill applies to individuals hired by ICE during the applicable time frame, irrespective of whether they have other non-ICE-related law enforcement experience which could otherwise count towards waiver eligibility requirements. This appears to establish an employer-dependent waiver eligibility restriction, rather than excluding certain types of training and experience from counting towards eligibility to receive a basic course waiver. As noted below, this could undermine a legal defense of this bill.

7) **Constitutional Concerns:** This bill prohibits certain persons hired by a specific federal agency from applying for a waiver from specified peace officer training requirements; therefore, it may be subject to a legal challenge under the Supremacy Clause.

State laws that conflict with federal laws or attempt to regulate the federal government may be invalidated for several reasons. The Supremacy Clause of the U.S. Constitution provides that federal law "shall be the supreme Law of the Land; and the Judges in every State shall be bound thereby, any Thing in the Constitution or Laws of any State to the Contrary notwithstanding." (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.) A recent Ninth Circuit injunction order against SB 805 (Pérez), Chapter 126, Statutes of 2025 outlined an even more stringent standard for direct regulation, 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." (*United States v. California* (9th Cir. 2026) 173 F.4th 1060, 1068.) In contrast, "'[a] state or local law discriminates against the federal government if it treats someone else better than it treats the government.'" (*Boeing*, *supra*, 768 F.3d at p. 842, quoting *United States v. City of Arcata* (9th Cir. 2010) 629 F.3d 986, 991.) Notably, "*any* discriminatory burden on the federal government" is prohibited. (*United States v. California*, *supra,* 921 F.3d at p. 880) (emphasis in original). However, generally applicable state laws can apply to federal entities. (See *Johnson v. Maryland*, 254 U.S. 51, 56 (1920); *N.D*, *supra,* 495 U.S. at pp. 435-438; *United States v. Washington*, *supra,* 596 U.S. at p. 839.)

A related doctrine is conflict preemption, whereby state laws that conflict with federal law are preempted. (*United States v. California*, *supra*, F.3d at pp. 878-879.) "This includes cases where compliance with both federal and state regulations is a physical impossibility, and

those instances where the challenged state law stands as an obstacle to the accomplishment and execution of the full purposes and objectives of Congress." (*Arizona v. United States*, 567 U.S. 387, 399 (2012).) For example, in *United States v. California*, the Ninth Circuit Court of Appeals upheld the provisions of the California Values Act relating to law enforcement cooperation with ICE. The court of appeals had "no doubt that SB 54 makes the jobs of federal immigration authorities more difficult." (*Id.* at p. 886.) But the court concluded that "this frustration does not constitute obstacle preemption," because federal law "does not require any particular action on the part of California or its political subdivisions." (*Id.* at p. 889.) "Even if SB 54 obstructs federal immigration enforcement," the court stated, "the United States' position that such obstruction is unlawful runs directly afoul of the Tenth Amendment and the anticommandeering rule." (*Id.* at p. 888.) "California has the right, pursuant to the anticommandeering rule, to refrain from assisting with federal efforts." (*Id.* at p. 891.) The court concluded that SB 54 does not violate the United States' intergovernmental immunity for similar reasons. (*Ibid.*)

This bill makes a person hired by ICE as a law enforcement officer after January 1, 2025, ineligible for a regular basic course waiver or a specialized investigator waiver, which could lead to a lawsuit alleging that it discriminates against the federal government in violation of intergovernmental immunity. The targeted approach of this bill, and its conditioning of waiver-ineligibility based upon recent employment with a single federal agency, regardless of the individual's actual training or experience, could support an argument that this is intended to target the federal government. Retroactively applying the waiver restriction to ICE officers hired shortly before the commencement of the term of a particular U.S. President may additionally undermine the argument that this law is non-discriminatory and generally applicable. While this bill only pertains to California peace officer waiver eligibility, under intergovernmental immunity, "*any* discriminatory burden on the federal government" is prohibited. (*United States v. California*, *supra*, 921 F.3d at p. 880) (emphasis in original). A claim that this limited restriction on the future employment prospects of ICE law enforcement officers rises to the level of directly regulating the federal government is possible, albeit less likely, given that this bill does not impact the duties of current ICE officers and pertains to the degree of training required to become a California peace officer.

8) **Argument in Support**: According to the *Mexican American Legal and Educational Fund (MALDEF)*, "The bill preserves the integrity of California's peace officer training standards by ensuring that recent federal immigration enforcement service does not establish eligibility for a Regular Basic Course Waiver.

"The Regular Basic Course and the limited waiver process for that requirement serve that purpose. A Basic Course Waiver is not automatic reciprocity for prior out-of-state or federal service. It is a limited mechanism for determining whether an applicant's prior training, education, and experience are sufficiently equivalent to California's requirements for peace officer service. SB 938 appropriately recognizes that, for individuals hired by ICE on or after January 1, 2025, federal immigration enforcement service should not establish eligibility for a Basic Course Waiver, because it is not necessarily equivalent to service as a California peace officer performing general law enforcement duties.

"Federal immigration enforcement officers operate under different legal authorities, policies, command structures, operational objectives, and accountability systems than California peace officers. Their work is primarily directed toward federal immigration enforcement, detention,

and removal operations. That work does not necessarily provide the same training or experience in, among other things, local patrol responsibilities, constitutional policing, community interaction, and de-escalation principles, and state-law arrest and use-of-force standards.

"California is not required to treat recent ICE detention or removal experience as equivalent to California peace officer training. Nor should California assume that such experience prepares an individual to exercise California peace officer authority without completing the state's basic training requirements. SB 938 does not regulate federal hiring, deployment, discipline, or operations. It regulates only the qualifications required before an individual may serve as a California peace officer.

"This distinction is important. The bill does not prevent the federal government from employing or training immigration enforcement officers. It does not interfere with federal immigration enforcement operations. It simply ensures that California maintains control over the minimum qualifications for California peace officers and does not treat federal immigration enforcement service as a substitute for California's own peace officer training standards."

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

10) **Related Legislation**:

a) AB 1896 (M. González) would disqualify any person employed by an entity that engaged in immigration enforcement from January 2025 to January 2029 from being employed as a peace officer. AB 1896 is pending a hearing in the Senate Public Safety Committee.

b) AB 1627 (Ávila Farías) would define "law enforcement officer," for purposes of a provision of law that disqualifies a person from becoming a peace officer if they were employed in law enforcement by any state or the federal government and committed certain misconduct, to include a law enforcement officer employed in any state or by the federal government who engages in immigration enforcement, as defined. AB 1627 is pending a hearing in the Senate Public Safety Committee.

c) SB 1332 (L. Gonzalez) would have made a person ineligible for employment in any civil service or exempt position with the state if the person has been employed by ICE during the period beginning January 20, 2025, and ending January 20, 2029, among other changes. The hearing on SB 1332 in the Senate Labor, Public Employment and Retirement Committee was canceled at the request of the author.

11) **Prior Legislation**:

a) AB 17 (Cooper), of the 2021-2022 Legislative Session, would have disqualified a person from being a peace officer if the person has been discharged from the military for committing an offense that would have been a felony if committed in California or if the person has been certified as a peace officer and has had that certification revoked by POST. AB 17 did not receive a hearing in this Committee.

b) AB 60 (Salas), of the 2021-2022 Legislative Session, would have required a peace officer's certificate to be suspended, revoked, or canceled when the person is ineligible to be a peace officer or when the person has been subject to a sustained termination for serious misconduct, as defined, on or after January 1, 2022. AB 60 did not receive a hearing in this Committee.

c) SB 449 (Bradford), Chapter 397, Statutes of 2023, imposed limitations on the release of specified information in peace officer decertification proceedings and made other clarifying changes to the peace officer certification process established by SB 2 (Bradford), Chapter 409, Statutes of 2021.

d) SB 2 (Bradford), Chapter 409, Statutes of 2021, granted new powers to POST to investigate and determine peace officer fitness and to decertify officers who engage in "serious misconduct" and made changes to the Bane Civil Rights Act to limit immunity as specified.

REGISTERED SUPPORT / OPPOSITION:

Support

California Public Defenders Association
Central American Resource Center of California (CARECEN-LA)
Mexican-American Legal Defense and Ed Fund [maldef]

Oppose

California Association of Highway Patrolmen
California State Sheriffs' Association
Peace Officers Research Association of California (PORAC)

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

Date of Hearing: June 23, 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 was signed into law on September 20, 2025.

---

[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

---

[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.

On the other hand, the bill narrows the list of facial covering exemptions by prohibiting the use of exempt coverings if they are combined in a manner that results in, or is intended to result in, concealing or obscuring an officer's identity. This may prohibit the concurrent use of items such as sunglasses and a motorcycle helmet, if collectively, they result in the concealing of an officer's identity. This may be unduly restrictive. The author may wish to narrow or remove this proposed new restriction on utilizing combined exempt facial coverings.

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

Indivisible Westside Los Angeles
Initiate Justice
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, INC.
4 Private Individuals

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 Peace Officers' Associaiton
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' Assocation
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 23, 2026
Deputy Chief Counsel: Stella Choe

ASSEMBLY COMMITTEE ON PUBLIC SAFETY
Nick Schultz, Chair

SB 1009 (Becker) – As Amended May 14, 2026

As Proposed to be Amended in Committee

SUMMARY: Prohibits a court from ordering a minor to be detained in a juvenile hall unless it makes a finding that a less restrictive alternative is unsuitable and specifies that a court shall, upon request, reconsider whether continued detention in the juvenile hall continues to be necessary. Specifically, **this bill**:

1) Removes the requirement that the court find that it is reasonably necessary to protect another person or property as a reason to detain a minor, and instead requires the court to find that it is a matter of immediate and urgent necessity to detain the minor for protection of another person or property.

2) States that whenever a court orders a minor detained in the juvenile hall, the court shall, upon request, reconsider whether continued detention in the juvenile hall is necessary based on current information and consistent with existing law.

3) Specifies that the above provision shall not be construed to affect a minor's rights under existing law.

4) Prohibits a minor from being removed from the physical custody of the minor's parents or guardian as the result of an order of wardship unless the court finds that a less restrictive, alternative disposition for the ward is unsuitable.

5) Specifies that in making the determination of whether a less restrictive, alternative disposition for the ward is unsuitable, the court shall consider all relevant and material evidence, including, but not limited to, the recommendations of counsel, the probation department, and any other agency or individual designated by the court to advise on the appropriate disposition of the case.

6) States that when considering an order of removal or continued removal based on the evidence in the above provision, the court shall consider all of the following:

    a) Whether reasonable efforts were made to eliminate the need for removal, or continued removal, of the child from the home; and,

    b) Whether services could be provided to enable the child's parent or legal guardian to obtain assistance that may be needed to effectively provide the care and control necessary for the child to return home in lieu of an order of removal.

7) Requires the court, if the court orders the removal of the minor from the physical custody of the minor's parents or guardian, to state on the record the reasons for its decision, including the reasons supporting the court's finding that a less restrictive, alternative disposition for the ward is unsuitable and specify how it weighed the factors.

8) Requires the court to set forth the reasons in an order entered upon the minutes if requested by either party or in any case in which the proceedings are not being recorded electronically or reported by a court reporter.

9) Makes conforming changes.

10) States Legislative findings and declarations regarding detention of juveniles.

EXISTING LAW:

1) Provides that, any minor who is between 12 and 17 years of age that violates any law of this state or of the United States or any ordinance of any city or county other than an ordinance establishing a curfew based solely on age, is within the jurisdiction of the juvenile court, and may be adjudged to be a ward of the court. (Welf. & Inst. Code, § 602, subd. (a).)

2) Provides that a peace officer may, without a warrant, take into temporary custody a minor when there is reasonable cause for believing that the minor will be adjudged a ward of the court or charged with a criminal action, or that the minor has violated an order of the juvenile court or escaped from any commitment ordered by the juvenile court, or the minor is found in any street or public place suffering from any sickness or injury which requires medical treatment, hospitalization, or other remedial care. (Welf. & Inst. Code, § 625.)

3) Provides that an officer who takes a minor into temporary custody may do any of the following: release the minor; deliver or refer the minor to a public or private agency with which the city or county has an agreement or plan to provide shelter, counseling, or diversion services; prepare a written notice to appear before the probation officer of the county in which the minor was taken into custody at a specified time and place; or take the minor without necessary delay before the probation officer of which the minor was taken into custody. (Welf. & Inst. Code, § 626.)

4) Requires, when an officer takes a minor before a probation officer at a juvenile hall or to any other place of confinement, the officer take immediate steps to notify the minor's parent, guardian, or a responsible relative that such minor is in custody and the place where he is being held. (Welf. & Inst. Code, § 627.)

5) Requires the probation officer to immediately investigate the circumstances of the minor and the facts surrounding his or her being taken into custody and immediately release the minor to the custody of his or her parent, legal guardian, or responsible relative unless it can be demonstrated upon the evidence before the court that continuance in the home is contrary to the minor's welfare and one or more of the following conditions exist:

    a) Continued detention of the minor is a matter of immediate and urgent necessity for the protection of the minor or reasonable necessity for the protection of the person or property of another;

b) The minor is likely to flee the jurisdiction of the court; or,

c) The minor has violated an order of the juvenile court. (Welf. & Inst. Code, § 628, subd. (a)(1).)

6) Requires the probation officer to release a minor to his or her parent, guardian, or responsible relative on home supervision unless one of the above conditions exists. (Welf. & Inst. Code, § 628.1.)

7) States that if electronic monitoring is imposed for a period greater than 30 days, the court shall hold a hearing no less than once every 30 days to ensure that the minor does not remain on electronic monitoring for an unreasonable length of time. In determining whether a length of time is unreasonable, the court shall consider whether there are less restrictive conditions of release that would achieve the rehabilitative purpose of the juvenile court. If less restrictive conditions of release are warranted, the court shall order removal of the electronic monitor or modify the terms of the electronic monitoring order to achieve the less restrictive alternative. (Welf. & Inst. Code, § 628.2.)

8) Requires, except as provided, that a minor taken into custody be brought before a judge or referee of the juvenile court for a hearing to determine whether the minor must be further detained as soon as possible and no later than the next judicial day after a petition has been filed. Provides that such a hearing be referred to as a "detention hearing." (Welf. & Inst. Code, § 632, subd. (a).)

9) Requires, upon the minor's appearance before the court at the detention hearing, the minor and the minor's parent or guardian, if present, to be informed of the reasons why the minor was taken into custody, the nature of the juvenile court proceedings, and the right of the minor to be represented at every stage of the proceedings by counsel. (Welf. & Inst. Code, § 633.)

10) Provides that the court examine the minor, his or her parent, legal guardian, or other person having relevant knowledge, hear relevant evidence the minor, his or her parent, legal guardian, or counsel desires to present, and, unless it appears that the minor has violated an order of the juvenile court or has escaped from the commitment of the juvenile court or that it is a matter of immediate and urgent necessity for the protection of the minor or reasonably necessary for the protection of the person or property of another that he or she be detained or that the minor is likely to flee to avoid the jurisdiction of the court, the court must make its order releasing the minor from custody. (Welf. & Inst. Code, § 635, subd. (a).)

11) Provides that the circumstances and gravity of the alleged offense may be considered, in conjunction with other factors, to determine whether it is a matter of immediate and urgent necessity for the protection of the minor or reasonably necessary for the protection of the person or property of another that the minor be detained. (Welf. & Inst. Code, § 635, subd. (b)(1).)

12) Requires the court to order the release of the minor from custody unless a prima facie showing has been made that the minor will be adjudged a ward of the court or charged with a criminal action. (Welf. & Inst. Code, § 635, subd. (c)(1).)

13) Provides that if it appears upon the hearing that the minor has violated an order of the juvenile court or has escaped from a commitment of the juvenile court, or that it is a matter of immediate and urgent necessity for the protection of the minor or reasonably necessary for the protection of the person or property of another that the minor be detained or that the minor is likely to flee to avoid the jurisdiction of the court, and that continuance in the home is contrary to the minor's welfare, the court may make its order that the minor be detained in the juvenile hall or other suitable place designated by the juvenile court for a period not to exceed 15 judicial days. Requires the court to enter the order together with its findings of fact in support in the records of the court. (Welf. & Inst. Code, § 636, subd. (a).)

14) Requires the probation officer to submit to the court specified documentation if the probation officer is recommending that the minor be detained. (Welf. & Inst. Code, § 636, subd. (c).)

15) Requires the court to determine whether continuance in the home is contrary to the minor's welfare and whether there are available services that would prevent the need for further detention. Requires the court to make that determination on a case-by-case basis and to make reference to the documentation provided by the probation officer or other evidence relied upon in reaching its decision. (Welf. & Inst. Code, § 636, subd. (d).)

16) Requires the court to release the minor to the physical custody of the minor's parent or legal guardian if the minor can be returned to the custody of the minor's parent or legal guardian at the detention hearing through the provision of services to prevent removal. (Welf. & Inst. Code, § 636, subd. (d)(1).)

17) Requires the court to state the facts upon which the detention is based if the minor cannot be returned to the custody of the minor's parent or legal guardian at the detention hearing. (Welf. & Inst. Code, § 636, subd. (d)(2).)

18) States that if the minor or, if the minor is represented by an attorney, the minor's attorney, requests evidence of the prima facie case, a rehearing shall be held within three judicial days to consider evidence of the prima facie case. If the prima facie case is not established, the minor shall be released from detention. (Welf. & Inst. Code, § 637.)

19) Provides that when the court ascertains that the rehearing cannot be held within three judicial days because of the unavailability of a witness, a reasonable continuance may be granted for a period not to exceed five judicial days. (Welf. & Inst. Code, § 637.)

20) States that the court, in all cases in which a minor is adjudged a ward or dependent child of the court, may limit the control to be exercised over the ward or dependent child by any parent or guardian and requires the court, in its order, to clearly and specifically set forth all those limitations. Prohibits a ward or dependent child from being taken from the physical custody of a parent or guardian unless the court finds one of the following facts:

    a) That the parent or guardian is incapable of providing or has failed or neglected to provide proper maintenance, training, and education for the minor;

    b) That the minor has been tried on probation while in custody and has failed to reform; or,

c) That the welfare of the minor requires that custody be taken from the minor's parent or guardian. (Welf. & Inst. Code, § 726, subd. (a).)

21) Provides that whenever the court specifically limits the right of the parent or guardian to make educational or developmental services decisions for the minor, the court shall at the same time appoint a responsible adult to make educational or developmental services decisions for the child until one of the following occurs:

a) The minor reaches 18 years of age, unless the child chooses not to make educational or developmental services decisions for themselves, or is deemed by the court to be incompetent;

b) Another responsible adult is appointed to make educational or developmental services decisions for the minor;

c) The right of the parent or guardian to make educational or developmental services decisions for the minor is fully restored;

d) A successor guardian or conservator is appointed; or,

e) The child is placed into a planned permanent living arrangement as specified. (Welf. & Inst. Code, § 726, subd. (b).)

22) Requires, if the minor is removed from the physical custody of the minor's parent or guardian as the result of an order of wardship, the order to specify that the minor may not be held in physical confinement for a period in excess of the middle term of imprisonment which could be imposed upon an adult convicted of the offense or offenses which brought or continued the minor under the jurisdiction of the juvenile court. (Welf. & Inst. Code, § 726, subd. (d)(1).)

23) Authorizes the court, if a minor or nonminor is adjudged a ward of the court, to make any reasonable orders for the care, supervision, custody, conduct, maintenance, and support of the minor or nonminor, including medical treatment, subject to further order of the court. (Welf. & Inst. Code, § 727, subd. (a).)

24) Authorizes the court, when a minor is adjudged a ward of the court, to order one of several specified types of treatment. Provides that as an additional alternative, the court may commit the minor to a juvenile home, ranch, camp, or forestry camp. Specifies that if there is no county juvenile home, ranch, camp, or forestry camp within the county, the court may commit the minor to the county juvenile hall. (Welf. & Inst. Code, § 727, subd. (a).)

25) Provides that when a minor is adjudged a ward of the court, the court may order any of the types of treatment referred in Welfare and Institutions Code Section 727, and as an alternative, may commit the minor to a juvenile home, ranch, camp, or forestry camp. If there is no county juvenile home, ranch, camp, or forestry camp within the county, the court may commit the minor to the county juvenile hall. (Welf. & Inst. Code, § 730, subd. (a)(1).)

FISCAL EFFECT: Unknown.

COMMENTS:

1) **Sponsors**: California Youth Defender Center; Communities United for Restorative Youth Justice; and Fresh Lifelines for Youth

2) **Author's Statement**: According to the author, "For too long, California's juvenile justice system has relied on locked doors and high walls as our first response to youth behavior, rather than our last resort. SB 1009 is a common-sense reform that updates this outdated model to reflect better what we know today about brain science, public safety, and fiscal responsibility. The data shows that young people with existing behavioral and mental health problems often deteriorate in detention, not improve. It disrupts education, severs family ties, and counterintuitively increases the risk of future legal trouble. SB 1009 ensures we are no longer setting our kids up for a cycle of incarceration before they've even reached adulthood. This bill isn't just about compassion, it's about systemic efficiency. Incarceration is our most expensive and least effective tool for rehabilitation. By prioritizing community-based alternatives such as counseling and supervision, we are investing in solutions that reduce recidivism and save taxpayer dollars. SB 1009 stops treating our children like 'criminals in training' and start treating them like the future of our state. It brings transparency to our courtrooms and accountability to our justice system, ensuring that every child is given a fair chance to succeed within their own community."

3) **Juvenile Court Jurisdiction**: As a general rule, any person between the age of 12 and 17 who commits a crime falls within the jurisdiction of the juvenile court. (Welf. & Inst. Code, § 602.) This extends to a youth alleged to have committed a crime before their 18th birthday, even if they were an adult at the time of arrest or commencement of proceedings. (Welf. & Inst. Code, § 603.) For example, if someone commits a crime at age 17, but it is not discovered or tried until the person is 20, the person can still be tried in juvenile court. The jurisdiction of the juvenile court generally continues until the youth is 21 years old, unless the youth committed a 707(b) offense, then the court may retain jurisdiction until the person attains 23 years of age. Additionally, if the youth would have, in criminal court, faced an aggregate sentence of 7 years or more, the juvenile court's jurisdiction continues until the youth turns 25. (Welf. & Inst. Code, § 607.)

   The creation of the juvenile court, now over 100 years old, was rooted in the idea that adolescents, who are not fully developed or mature, are less culpable than adults. Accordingly, the focus of the juvenile court was rehabilitation, not punishment. (See, e.g., *In re Gault* (1967) 387 U.S. 1, 15-16.) The purpose of the juvenile law is to provide for the protection and safety of the public and each minor under the jurisdiction of the court and to preserve and strengthen family ties when possible. (Welf. & Inst. Code, § 202, subd. (a).) Minors under the jurisdiction of the juvenile court as a consequence of delinquent conduct receive care, treatment, and guidance that is consistent with their best interest, that holds them accountable for their behavior, and that is appropriate for their circumstances. This may include punishment that is consistent with rehabilitative objectives. (Welf. & Inst. Code, § 202, subd. (b).) The juvenile court has a wide range of options available for placing its wards, including probation, placement in a relative's home, foster home, licensed community care facility, or group home, and commitment to "a juvenile home, ranch, camp, or forestry camp" or "the county juvenile hall." (Welf. & Inst. Code, §§ 727, subd. (a); 730, subd. (a)(1).)

This bill provides that when making an order to place the minor in one of the listed treatment options in Welfare and Institutions Code Section 727 and 730, the court shall make a finding that a less restrictive, alternative disposition for the ward is unsuitable. In making this determination, the court shall consider whether reasonable efforts were made to eliminate the need for removal, or continued removal, of the child from the home and whether services could be provided to enable the child's parent or legal guardian to obtain assistance that may be needed to effectively provide the care and control necessary for the child to return home in lieu of an order of removal. The court shall state on the record the reasons for its decision and specify how it weighed the factors.

Supporters of the bill note that probation is responsible for providing a report to help the juvenile court make its disposition decision and such report should include "in addition to other relevant and material evidence, the age of the minor, his social, personal and behavioral history, the circumstances and gravity of the offense committed by the minor, and the minor's 'previously delinquent history.' The social study should also include "an exploration of and recommendation to the wide range of alternative facilities potentially available to rehabilitate the minor." (*In re L.S.* (1990) 220 Cal.App.3d 1100, 1104.) However, in practice, these reports officers rarely identify the specific community-based resources available to the youth, describe what those resources would offer, or explain why those alternatives would be inadequate compared to confinement in juvenile hall. Their disposition recommendations can favor secure placement without demonstrating that less restrictive options were meaningfully considered and found insufficient.

Opponents of the bill argue that the requirements in the bill do not take into account the steps required in detention assessments to identify appropriate placement for youth based on all of the factors which must be taken into consideration when making such determinations. They anticipate that the additional finding required by this bill could inhibit necessary detention decisions for the highest risk and most serious juvenile offenses.

4) **Juvenile Detention Hearings**: When a minor is taken into custody, the minor must be taken before a juvenile court judge or referee for a hearing to determine whether the minor must be further detained. (Welf. & Inst. Code, § 632, subd. (a).) The detention hearing must take place as soon as possible and no later than the next court day after a petition has been filed with the court. (*Ibid.*) However, for a misdemeanor not involving violence, the detention hearing must take place as soon as possible and no later than 48 hours after being taken into custody. (Welf. & Inst. Code, § 632, subd. (b).) If a minor is not brought before a judge or referee within the statutorily required periods, they shall be released from custody. (Welf. & Inst. Code, § 632, subd. (c).)

At the detention hearing, the minor and the minor's parent or guardian are informed of the reasons why the minor was taken into custody, the nature of the juvenile court proceedings, and the right of the minor and the minor's parents or guardian to be represented at every stage of the proceedings by an attorney. (Welf. & Inst. Code, § 633.) During the detention hearing, the court will question the minor, the minor's parent or legal guardian, or other individuals with relevant knowledge, and hear relevant evidence the minor, the minor's parent or legal guardian, or their attorney presents. (Welf. & Inst. Code, § 635, subd. (a).)

The court is required to order the release of the minor from custody unless the court finds that the prosecutor has made a prima facie case that the minor has committed a crime and that one of the following is true: (1) the minor has violated a juvenile court order; (2) the minor has escaped from the commitment of the juvenile court; (3) that it is a matter of immediate and urgent necessity for the protection of the minor; (4) that it is reasonably necessary for the protection of the person or property of another that the minor be detained; or (5) that the minor is likely to flee to avoid the jurisdiction of the court. (Welf. & Inst. Code, § 635, subds. (a), (c).) The court may consider the circumstances and gravity of the alleged offense, in conjunction with other factors, to determine whether it is a matter of immediate and urgent necessity for the protection of the minor or reasonably necessary for the protection of the person or property of another that the minor be detained. (Welf. & Inst. Code, § 635, subd. (b)(1).)

If the court finds that the minor has violated a juvenile court order, the minor has escaped from the commitment of the juvenile court, that it is a matter of immediate and urgent necessity for the protection of the minor, that it is reasonably necessary for the protection of the person or property of another that the minor be detained, or that the minor is likely to flee to avoid the jurisdiction of the court, and continuance in the home is contrary to the minor's welfare, the court may order the minor detained in juvenile hall or another suitable placement for a period not to exceed 15 judicial days. (Welf. & Inst. Code, § 636, subd. (a).) If the probation officer recommends that the minor be detained, the probation officer must submit documentation to the court that continuance in the home is contrary to the minor's welfare or that reasonable efforts were made to prevent or eliminate the need for removal of the minor from the home as well as documentation of the nature and results of the services provided. (Welf. & Inst. Code, § 636, subd. (c).) Before detaining the minor, the court must determine whether continuance in the home is contrary to the minor's welfare and whether there are available services that would prevent the need for further detention. (Welf. & Inst. Code, § 636, subd. (d).) This determination is made on a case-by-case basis and the court is required to make reference to the documentation provided by the probation officer or other evidence relied upon in reaching its decision. (*Ibid.*) If the court finds that 24-hour supervision is not necessary, the minor must be released on home supervision. (Welf. & Inst. Code, §§ 628.1, 636, subd. (b).)

This bill prohibits a court from ordering a minor detained pre-adjudication in the juvenile hall unless it makes a finding that a less restrictive alternative to detention in the juvenile hall is unsuitable. As discussed above, existing law provides that a court shall release the minor from custody unless it appears that the minor has violated an order of the juvenile court, has escaped from the commitment of the juvenile court, that it is a matter of immediate and urgent necessity for the protection of the minor, or that it is reasonably necessary for the protection the person or property of another that they be detained. The Rules of Court provide guidance on these factors. As for detention for the immediate and urgent necessity of the child, the court must consider whether or not: 1) There are means to ensure the care and protection of the child until the next scheduled court appearance; 2) The child is addicted to or is in imminent danger from the use of a controlled substance or alcohol; and, 3) There exist other compelling circumstances that make detention reasonably necessary. (Cal. Rules of Court, rule 5.760(j).) As for detention reasonably necessary for protection of the person or property of another, the court must consider whether or not: 1) The alleged offense involved physical harm to the person or property of another; 2) The prior history of the child reveals that the child has caused physical harm to the person or property of another or has posed a

substantial threat to the person or property of another; and, 3) There exist other compelling circumstances that make detention reasonably necessary. (Cal. Rules of Court, rule 5.760(k).)

This bill revises the requirement that the court find that it is reasonably necessary for the protection of the person or property of another to detain the minor and instead requires the court to find that it is a matter of immediate and urgent necessity for the protection of the person or property of another. In print, the bill deletes reasonably necessary protection of another's property as one of the factors for the court to consider when determining whether the minor should be detained. The author is planning to amend the bill in committee to add back in protection of property as a factor for the court to consider. The amendments would also clean up reference to the existing "reasonably necessary" that was inadvertently left in the bill.

Additionally, this bill requires, whenever a court orders a minor detained in the juvenile hall, the court, upon request, to reconsider whether continued detention in the juvenile hall is necessary based on current information and consistent with the provisions of existing law in order to prevent unnecessarily prolonged detentions.

5) **Argument in Support**: According to *California Youth Defender Center*, *Communities United for Restorative Youth Justice*, and *Fresh Lifelines for Youth*, the sponsors of this bill: "The decision to detain a young person in juvenile hall prior to adjudication is among the most consequential determinations a juvenile court can make. Research consistently demonstrates that detention disrupts education, destabilizes families, exacerbates mental health conditions, and increases recidivism. Even short periods of confinement can produce lasting harm.

"Despite the gravity of this decision, California's detention statutes permit detention if "it is a matter of immediate and urgent necessity for the protection of the minor or reasonably necessary for the protection of the person or property of another." "Immediate and urgent necessity" is a well-recognized, appropriate standard to govern detention decisions. However, the second clause of this criterion allows youth to be detained under a "reasonably necessary" standard—not an "immediate and urgent necessity" standard—under a wide variety of circumstances, including when a youth poses no threat to themselves or to others, but only poses a purported risk to property.

"This standard fails to provide meaningful protection against unnecessary confinement, as it allows confinement of youth for minor property offenses, such as petty theft or vandalism. Detaining a youth in juvenile hall on what amounts to a no-bail warrant for a property crime is not consistent with evidence-based practices, and treats youth far more harshly than adults accused of similar conduct.

"These gaps create a system that allows youth to be separated from the very relationships, routines, and support that promote their stability and well-being, even when such separation is not necessary for the youth's or community safety.

"SB 1009 strengthens and clarifies existing laws governing pre-adjudication detention in three meaningful ways. First, it replaces the "reasonably necessary" standard with a clearer threshold that already exists in youth detention law: 'immediate and urgent necessity.'

"Second, SB 1009 prevents detention based solely on a risk to property, ensuring that youth are not confined for minor property crimes in circumstances where adults would typically be released on their own recognizance.

"Finally, SB 1009 requires courts to consider less restrictive alternatives to juvenile hall before ordering detention, reinforcing the principles that juvenile courts should favor the least restrictive appropriate environment for youth and utilize detention in the juvenile hall only when necessary.

. . . .

"When a court determines that a youth should remain in juvenile hall following the initial detention hearing, the youth is entitled to a detention rehearing. This rehearing provides an important procedural safeguard: it allows the youth, through their attorney, to confront and cross-examine the individual who prepared the detention report and to challenge the evidence used to establish a prima facie case. Critically, this detention rehearing typically occurs quickly, within three judicial days after the court's initial detention order.

"Because both the initial detention hearing and rehearing occur at the very beginning stages of the case, the juvenile court often has limited information at that time about the youth and the youth's strengths and needs. Following those hearings, it is common that additional information becomes available that is of significant consequence to the question of whether the youth should remain detained pre-adjudication. However, there currently is a lack of clarity as to the scope of a juvenile court's authority to reconsider its previous detention orders and the procedure by which it may do so.

"The detention statutes as written provide no clear process to determine whether continued detention remains justified. Therefore, a young person may stay in custody in "time waived" cases for weeks or months without reassessment—even when the needs of the youth and public safety no longer merit detention.

. . . .

"SB 1009 codifies the commonsense principle that juvenile judges always have authority at any pre-adjudication court hearing to reconsider whether a youth's detention in juvenile hall remains necessary. The court's decision should be based on current information about the youth, the criminal charges, and any other information relevant to the court's detention decision under the existing detention statutes.

. . . .

"Presently, despite the gravity of the disposition decision to commit a youth to a camp, ranch or juvenile hall, courts are not required to make specific findings justifying that commitment. In contrast, the court is required to make specific findings when placing a youth on electronic monitoring, committing a youth to a secure youth treatment facility, or transferring a youth to criminal court. Yet under current law, courts can order confinement without making findings on the record about the necessity of a camp, ranch, or juvenile hall commitment, whether its duration is proportionate, whether less restrictive placements were considered and rejected, and what efforts were made to avoid the need for a custodial commitment.

"Similarly, the court is required to find that custody is the least restrictive option only when committing a youth to a secure youth treatment facility —the most restrictive placement—

but not when ordering a commitment to a ranch, camp, or juvenile hall. This significant statutory gap exists despite the fact that the Legislature has declared its desire to "ensure that dispositions are in the least restrictive appropriate environment."

"To address these inconsistencies, SB 1009 will require courts to consider the efforts that were made to eliminate the need for a custodial commitment, and whether services could be provided to the youth and the youth's family to eliminate the need for post-disposition confinement of the youth. Moreover, the bill requires that judges articulate the court's evaluative process by detailing how it weighed the evidence and by identifying the specific facts which persuaded the court to determine that the specified custodial commitment is required."

6) **Argument in Opposition**: According to *Chief Probation Officers of California*, "Probation, in concert with the courts, counties, and additional stakeholders, have done significant work over the last decade to proactively develop and utilize evidence-based approaches to addressing youth violence and crime, ensuring that system interventions address individual rehabilitative and criminogenic needs, and public safety impacts. This has resulted in an over 70% decline in juvenile detention rates while keeping juvenile crime rates low. It is important to note that juvenile detention rates have decreased significantly over the last decade reflecting this work to ensure that there is a continuum of responses to address juvenile offenses including, where appropriate, non-detention alternatives such as informal probation and diversion, and that detention is used only by the court when deemed necessary. It is equally important to note however that where juveniles are being detained, the offenses they are charged with, and adjudicated for, are statistically the most serious and violent felony offenses.

"In light of these declines in detention rates, and commensurate policy changes around a continuum of system responses, it is unclear what problem this bill seeks to address. It also appears that this bill does not take into account the steps required in detention assessments to identify appropriate placement for youth based on all of the factors which must be taken into consideration when making such determinations. Nor does the bill set adequate and appropriate guardrails to prevent unintended consequences arising from inhibiting necessary detention decisions for the highest risk and most serious juvenile offenses.

"Despite the intent language that this bill seeks to align with the adult system, it should be noted that the state has made a public policy decision that juveniles and adults should be treated differently in numerous aspects when charged with crimes. Accordingly, there are various ways in which the juvenile and adult systems differ and important reasons for that. For example, people in the criminal justice system can be released to their own responsibility as adults whereas youth under 18 return to a parent or guardian or placement outside of the home as determined by the court. This requires various considerations that differ for youth, rather than an adult, including youth cannot just be released to a multitude of less restrictive alternatives, as proposed by the bill, on their own. Appropriately, probation and the court must determine and weigh a variety of factors that not only takes into account the impact of crime on the community but is primarily focused on what is most appropriate for the youth or young adult in question.

"Additionally, this bill does not take into account the type, scope, and timing of information that would be required to be investigated and prepared to ensure comprehensive information

is provided to the court in in order to make a finding that no less restrictive option is suitable. In the absence of identifying an existing problem, the barriers erected in this bill are devoid of reflecting the various considerations within the juvenile justice system, especially in light of the most recent changes made to the juvenile justice system. It is unclear if the intent behind the bill is to narrow the path to detention for any youth or young adult. While CPOC agrees detention should be a last resort, we need to be sure that it is grounded in a way that reflects the unique issues presented by juveniles who commit crime and not arbitrarily close necessary pathways that enable courts to be responsive to community safety impacts for the most serious and violent offenses."

7) **Related Legislation**:

a) AB 1647 (Bryan) would prohibit the use of the minor's statements made during a transfer hearing or to the minor's probation officer from being used against the minor during subsequent juvenile proceedings or subsequent criminal proceedings, as specified. AB 1647 is pending hearing in Senate Public Safety Committee.

b) SB 1285 (Durazo) would expressly state that the statute that authorizes juvenile court judges discretion to dismiss a petition in the interests of justice is a general dismissal statute. SB 1285 is pending hearing in this committee.

8) **Prior Legislation**:

a) SB 448 (Becker), Chapter 608, Statutes of 2023, prohibited the juvenile court from basing the decision to detain a minor in custody solely on the minor's county of residence and requires that a minor be given equal consideration for release on home supervision, which may include electronic monitoring, regardless of whether the minor lives in the county where the offense occurred.

b) AB 2658 (Bauer-Kahan), Chapter 796, Statutes of 2022, awarded custody credits off a ward's maximum time of confinement for time spent on electronic monitoring, and requires periodic reviews by the court to ensure that electronic monitoring is still appropriate.

REGISTERED SUPPORT / OPPOSITION:

Support

California Youth Defender Center (Sponsor)
Communities United for Restorative Youth Justice (Sponsor)
Fresh Lifelines for Youth (Sponsor)
A New Path (parents for Addiction Treatment & Healing)
A New Way of Life Reentry Project
ACLU California Action
Alianza for Opportunity
Alliance for Boys and Men of Color
Alliance for Children's Rights
Anti Police-terror Project
Anti-recidivism Coalition

Arts for Healing and Justice Network
Attorney-at-law, Michael Whelan
Back to the Start
Brotherhood Crusade
California Alliance for Youth and Community Justice
California Attorneys for Criminal Justice
California Coalition for Women Prisoners
California for Safety and Justice
California Public Defenders Association
California United for a Responsible Budget (CURB)
California Youth Connection
Californians for Safety and Justice
Californians United for a Responsible Budget
Center on Juvenile and Criminal Justice
Children's Advocacy Institute
Chopra Law Firm
Coalition of California State Tribes
Community Interventions
Community Works
Community Works West
Courage California
Disability Rights California
East Bay Community Law Center
Ella Baker Center for Human Rights
Empowering Women Impacted by Incarceration
End Child Poverty California Powered by Grace
Fair Chance Project
Families Inspiring Reentry & Reunification 4 Everyone
Families United to End Life Without the Possibility of Parole (FUEL)
Felony Murder Elimination Project
Freedom 4 Youth
Friends Committee on Legislation of California
Glide Foundation
Haywood Burns Institute
In Our Care San Mateo County
Initiate Justice
Integral Community Solutions Institute
Jesse's Place Organization
Justice Teams Network
Justice2jobs Coalition
Juvenile Justice Advocates of California
Kern County Criminal Justice Coalition
LA County Public Defenders Union, Local 148
LA Defensa
Law Office of Edward Geil
Law Office of Laura R. Sheppard
Law Office of Monika Y. Loya
Legal Aid At Work
Legal Services for Prisoners With Children

Local 148 Los Angeles County Public Defender's Union
Los Angeles County Public Defender's Office
Los Angeles Regional Reentry Partnership (LARRP)
Milpa Collective
National Center for Youth Law
National Compadres Network
Peace and Justice Law Center
Restore 180
Restoring Hope California
Returning Home Foundation
Reuniting Families Contra Costa
Rubicon Programs
San Francisco Public Defender's Office
San Quentin Skunkworks
Santa Cruz Barrios Unidos
Silicon Valley De-bug
Sister Warriors Freedom Coalition
Smart Justice California, a Project of Beyond Impact
Starting Over INC.
Starting Over Strong
Success Stories Program
The Araminta Ross Foundation (TAR)
The California Youth Justice Project
The Change Parallel Project
The Collective for Liberatory Lawyering
The Place4grace
Underground Grit
Universidad Popular
Unlocked Futures
Urban Peace Institute
Urban Peace Movement
Viet Voices
Western Center on Law & Poverty
Youngsters for Change
Youth Alliance
Youth Empowerment
Youth for Innocence
Youth Forward
Youth Leadership Institute

Opposition

American Federation of State, County and Municipal Employees, Afl-cio
Association of Orange County Deputy Sheriffs
California District Attorneys Association
California Judges Association
California Police Chiefs Association
California State Sheriffs' Association
Chief Probation Officers' of California (CPOC)

Los Angeles County Deputy Probation Officers, Afscme Local 685
Los Angeles County District Attorney's Office
Peace Officers Research Association of California (PORAC)
Riverside Sheriffs' Association
Sacramento County Probation Association
San Diego County Probation Officers Association
San Joaquin County Probation Officers Association
State Coalition of Probation Organizations
Supervising Deputy Probation Officers Union, Teamsters Local 986

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

Amended Mock-up for 2025-2026 SB-1009 (Becker (S))

Mock-up based on Version Number 96 - Amended Senate 5/14/26
Submitted by: Stella Choe, Assembly Public Safety

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

SECTION 1. The Legislature finds and declares all of the following:

(a) It is widely recognized that youth held in secure facilities while awaiting court hearings experience significant negative impacts as a result of incarceration. Research highlights the traumatizing effect of detention on youth, the poor educational and employment outcomes of detained youth, the exacerbation of mental health issues, and the fact that youth incarceration may increase recidivism. See The Evolution of Juvenile Justice and Probation Practices in California (2022), a report commissioned by the California Probation Resource Institute, a project of the Chief Probation Officers of California.

(b) Youth confinement disrupts healthy development and worsens long-term rehabilitative outcomes. Juvenile halls concentrate in one place youth with diverse trauma histories, mental health needs, stages of adolescent development, and degree of justice system involvement. This setting can facilitate unintended peer associations and foster attitudes and choices that are contrary to the rehabilitative goals of the juvenile justice system.

(c) Detention forecloses opportunities for youth to demonstrate and develop positive behavior in the community during the pendency of the proceedings and limits a youth's ability to assist in their defense, thereby increasing the likelihood that continued confinement will be ordered at disposition.

(d) Youth of color, tribal youth, LGBTQ youth, youth with disabilities, and youth involved in the child welfare system are disproportionately represented in county juvenile halls across California. Data consistently demonstrate that these populations experience significantly higher rates of detention and institutional placement compared to their peers, reflecting systemic inequities that persist at every decision point in the juvenile justice process.

(e) Despite a sustained decline in youth arrest rates in recent decades, the number of detained youth has not fallen at a comparable pace. California dedicates considerable taxpayer resources to juvenile incarceration, often exceeding $250,000 annually per youth according to the Board of State and Community Corrections. These expenditures are not justified given the well-documented harms of youth confinement and the frequent availability of community-based alternatives that are shown to improve public safety outcomes as well as reduce costs.

(f) The Legislature reaffirms its intention stated in Senate Bill 823 (Chapter 337 of the Statutes of 2020) to ensure that dispositions are imposed in the least restrictive appropriate environment and to reduce the use of confinement in the juvenile justice system by utilizing community-based responses and interventions. Accordingly, courts should prioritize noncustodial dispositions that maintain youth connections to their families and communities, reserving custodial commitments for circumstances in which no suitable alternative exists and, if imposed, only for the duration necessary to meet the youth's rehabilitative needs.

(g) For these reasons, the Legislature reaffirms the longstanding principle that "detention be the exception, not the rule" for justice-involved youth. (In re William M. (1970) 3 Cal.3d 16, 26.)

SEC. 2. Section 635 of the Welfare and Institutions Code is amended to read:

635. (a) (1) The court will examine the minor, their parent, legal guardian, or other person having relevant knowledge, hear relevant evidence the minor, their parent, legal guardian, or counsel desires to present, and, unless it appears that the minor has violated an order of the juvenile court or has escaped from the commitment of the juvenile court or that it is a matter of immediate and urgent necessity for the protection of the minor or for the protection of ***the person or property of another*** ~~another person~~ that they be detained or that the minor is likely to flee to avoid the jurisdiction of the court, the court shall make its order releasing the minor from custody.

(2) The court shall not order a minor detained in the juvenile hall unless it makes a finding that a less restrictive alternative to detention in the juvenile hall is unsuitable.

(b) (1) The circumstances and gravity of the alleged offense may be considered, in conjunction with other factors, to determine whether it is a matter of immediate and urgent necessity for the protection of the minor or ~~reasonably necessary~~ for the protection of the person or property of another that the minor be detained.

(2) The court's decision to detain shall be based on the above factors, and shall not be based solely on the minor's county of residence. A minor shall be given equal consideration for release on home supervision pursuant to Section 628.1, which may include electronic monitoring pursuant to Section 628.2, regardless of whether the minor lives in the county where the offense occurred. The juvenile court has authority to order the minor be placed on home supervision, with or without electronic monitoring, regardless of the minor's county of residence.

(3) If a minor is a dependent of the court pursuant to Section 300, the court's decision to detain shall not be based on the minor's status as a dependent of the court or the child welfare services department's inability to provide a placement for the minor.

(c) (1) The court shall order release of the minor from custody unless a prima facie showing has been made that the minor is a person described in Section 601 or 602.

(2) If the court orders release of a minor who is a dependent of the court pursuant to Section 300, the court shall order the child welfare services department either to ensure that the minor's current

foster parent or other caregiver takes physical custody of the minor or to take physical custody of the minor and place the minor in a licensed or approved placement.

(d) If the probation officer has reason to believe that the minor is at risk of entering foster care placement as described in Section 11402, then the probation officer shall submit a written report to the court containing all of the following:

(1) The reasons why the minor has been removed from the parent's custody.

(2) Any prior referrals for abuse or neglect of the minor or any prior filings regarding the minor pursuant to Section 300.

(3) The need, if any, for continued detention.

(4) The available services that could facilitate the return of the minor to the custody of the minor's parents or guardians.

(5) Whether there are any relatives who are able and willing to provide effective care and control over the minor.

SEC. 3. Section 636 of the Welfare and Institutions Code is amended to read:

636. (a) (1) If it appears upon the hearing that the minor has violated an order of the juvenile court or has escaped from a commitment of the juvenile court or that it is a matter of immediate and urgent necessity for the protection of the minor or for the protection of ***the person or property of another*** ~~another person~~ that the minor be detained or that the minor is likely to flee to avoid the jurisdiction of the court, and that continuance in the home is contrary to the minor's welfare, the court may make its order that the minor be detained in the juvenile hall or other suitable place designated by the juvenile court for a period not to exceed 15 judicial days and shall enter the order together with its findings of fact in support thereof in the records of the court. The circumstances and gravity of the alleged offense may be considered, in conjunction with other factors, to determine whether it is a matter of immediate and urgent necessity for the protection of the minor or ***the person or property of another*** that the minor be detained. The court shall not order a minor detained in the juvenile hall unless it makes a finding that a less restrictive alternative to detention in the juvenile hall is unsuitable.

(2) The court's decision to detain shall be based on the above factors, and shall not be based solely on the minor's county of residence. A minor shall be given equal consideration for release on home supervision pursuant to Section 628.1, which may include electronic monitoring pursuant to Section 628.2, regardless of whether the minor lives in the county where the offense occurred. The juvenile court has authority to order the minor be placed on home supervision, with or without electronic monitoring, regardless of the minor's county of residence. If a minor is a dependent of the court pursuant to Section 300, the court's decision to detain shall not be based on the minor's status as a dependent of the court or the child welfare services department's inability to provide a placement for the minor.

(b) If the court finds that the criteria of Section 628.1 are applicable, the court shall place the minor on home supervision for a period not to exceed 15 judicial days, and shall enter the order together with its findings of fact in support thereof in the records of the court. If the court releases the minor on home supervision, the court may continue, modify, or augment any conditions of release previously imposed by the probation officer, or may impose new conditions on a minor released for the first time. If there are new or modified conditions, the minor shall be required to sign a written promise to obey those conditions pursuant to Section 628.1.

(c) If the probation officer is recommending that the minor be detained, the probation officer shall submit to the court documentation, as follows:

(1) Documentation that continuance in the home is contrary to the minor's welfare shall be submitted to the court as part of the detention report prepared pursuant to Section 635.

(2) Documentation that reasonable efforts were made to prevent or eliminate the need for removal of the minor from the home and documentation of the nature and results of the services provided shall be submitted to the court either as part of the detention report prepared pursuant to Section 635, or as part of a case plan prepared pursuant to Section 636.1, but in no case later than 60 days from the date of detention.

(d) Except as provided in subdivision (e), before detaining the minor, the court shall determine whether continuance in the home is contrary to the minor's welfare and whether there are available services that would prevent the need for further detention. The court shall make that determination on a case-by-case basis and shall make reference to the documentation provided by the probation officer or other evidence relied upon in reaching its decision.

(1) If the minor can be returned to the custody of the minor's parent or legal guardian at the detention hearing, through the provision of services to prevent removal, the court shall release the minor to the physical custody of the minor's parent or legal guardian and order that those services be provided.

(2) If the minor cannot be returned to the custody of the minor's parent or legal guardian at the detention hearing, the court shall state the facts upon which the detention is based. The court shall make the following findings on the record and reference the probation officer's report or other evidence relied upon to make its setting determinations:

(A) Whether continuance in the home of the parent or legal guardian is contrary to the minor's welfare.

(B) Whether reasonable efforts have been made to safely maintain the minor in the home of the minor's parent or legal guardian and to prevent or eliminate the need for removal of the minor from the minor's home. This finding shall be made at the detention hearing if possible, but in no case later than 60 days following the minor's removal from the home.

(3) If the minor cannot be returned to the custody of the minor's parent or legal guardian at the detention hearing, the court shall make the following orders:

(A) The probation officer shall provide services as soon as possible to enable the minor's parent or legal guardian to obtain any assistance as may be needed to enable the parent or guardian to effectively provide the care and control necessary for the minor to return to the home.

(B) The minor's placement and care shall be the responsibility of the probation department pending disposition or further order of the court.

(4) If the matter is set for rehearing pursuant to Section 637, or continued pursuant to Section 638, or continued for any other reason, the court shall find that the continuance of the minor in the parent's or guardian's home is contrary to the minor's welfare at the initial petition hearing or order the release of the minor from custody.

(e) For a minor who is a dependent of the court pursuant to Section 300, the court's decision to detain the minor shall not be based on a finding that continuance in the minor's current placement is contrary to the minor's welfare. If the court determines that continuance in the minor's current placement is contrary to the minor's welfare, the court shall order the child welfare services department to place the minor in another licensed or approved placement.

(f) For a placement made on or after October 1, 2021, each placement of the minor in a short-term residential therapeutic program shall comply with the requirements of Section 4096 and be reviewed by the court pursuant to Section 727.12.

(g) For a placement made on or after July 1, 2022, each placement of the minor in a community treatment facility shall comply with the requirements of Section 4096 and be reviewed by the court pursuant to Section 727.12.

(h) Whether the minor is returned home or detained, the court shall order the minor's parent or guardian to cooperate with the probation officer in obtaining those services described in paragraph (1) of, or in subparagraph (A) of paragraph (3) of, subdivision (d).

SEC. 4. Section 636.3 is added to the Welfare and Institutions Code, to read:

636.3. (a) Whenever a court orders a minor detained in the juvenile hall, the court shall, upon request, reconsider whether continued detention in the juvenile hall is necessary based on current information and consistent with the provisions of this chapter.

(b) This section shall not be construed to affect a minor's rights under Sections 636 and 657.

SEC. 5. Section 726 of the Welfare and Institutions Code is amended to read:

726. (a) In all cases in which a minor is adjudged a ward or dependent child of the court, the court may limit the control to be exercised over the ward or dependent child by any parent or guardian

and shall, in its order, clearly and specifically set forth all those limitations, but no ward or dependent child shall be taken from the physical custody of a parent or guardian, unless upon the hearing the court finds one of the following facts:

(1) That the parent or guardian is incapable of providing or has failed or neglected to provide proper maintenance, training, and education for the minor.

(2) That the minor has been tried on probation while in custody and has failed to reform.

(3) That the welfare of the minor requires that custody be taken from the minor's parent or guardian.

(b) Whenever the court specifically limits the right of the parent or guardian to make educational or developmental services decisions for the minor, the court shall at the same time appoint a responsible adult to make educational or developmental services decisions for the child until one of the following occurs:

(1) The minor reaches 18 years of age, unless the child chooses not to make educational or developmental services decisions for themselves, or is deemed by the court to be incompetent.

(2) Another responsible adult is appointed to make educational or developmental services decisions for the minor pursuant to this section.

(3) The right of the parent or guardian to make educational or developmental services decisions for the minor is fully restored.

(4) A successor guardian or conservator is appointed.

(5) The child is placed into a planned permanent living arrangement pursuant to paragraph (5) or (6) of subdivision (b) of Section 727.3, at which time, for educational decisionmaking, the foster parent, relative caretaker, or nonrelative extended family member, as defined in Section 362.7, has the right to represent the child in educational matters pursuant to Section 56055 of the Education Code, and for decisions relating to developmental services, unless the court specifies otherwise, the foster parent, relative caregiver, or nonrelative extended family member of the planned permanent living arrangement has the right to represent the child in matters related to developmental services.

(c) An individual who would have a conflict of interest in representing the child, as specified under federal regulations, may not be appointed to make educational decisions. The limitations applicable to conflicts of interest for educational rights holders shall also apply to authorized representatives for developmental services decisions pursuant to subdivision (b) of Section 4701.6. For purposes of this section, "an individual who would have a conflict of interest" means a person having any interests that might restrict or bias their ability to make educational or developmental services decisions, including, but not limited to, those conflicts of interest prohibited by Section 1126 of the Government Code, and the receipt of compensation or attorneys' fees for the provision

of services pursuant to this section. A foster parent may not be deemed to have a conflict of interest solely because the foster parent receives compensation for the provision of services pursuant to this section.

(1) If the court limits the parent's educational rights pursuant to subdivision (a), the court shall determine whether there is a responsible adult who is a relative, nonrelative extended family member, or other adult known to the child and who is available and willing to serve as the child's educational representative before appointing an educational representative or surrogate who is not known to the child.

If the court cannot identify a responsible adult who is known to the child and available to make educational decisions for the child and paragraphs (1) to (5), inclusive, of subdivision (b) do not apply, and the child has either been referred to the local educational agency for special education and related services or has a valid individualized education program, the court shall refer the child to the local educational agency for appointment of a surrogate parent pursuant to Section 7579.5 of the Government Code.

(2) All educational and school placement decisions shall seek to ensure that the child is in the least restrictive educational programs and has access to the academic resources, services, and extracurricular and enrichment activities that are available to all pupils. In all instances, educational and school placement decisions shall be based on the best interests of the child. If an educational representative or surrogate is appointed for the child, the representative or surrogate shall meet with the child, shall investigate the child's educational needs and whether those needs are being met, and shall, before each review hearing held under Article 10 (commencing with Section 360), provide information and recommendations concerning the child's educational needs to the child's social worker, make written recommendations to the court, or attend the hearing and participate in those portions of the hearing that concern the child's education.

(3) Nothing in this section in any way removes the obligation to appoint surrogate parents for students with disabilities who are without parental representation in special education procedures as required by state and federal law, including Section 1415(b)(2) of Title 20 of the United States Code, Section 56050 of the Education Code, Section 7579.5 of the Government Code, and Rule 5.650 of the California Rules of Court.

If the court appoints a developmental services decisionmaker pursuant to this section, they shall have the authority to access the child's information and records pursuant to subdivision (u) of Section 4514 and paragraph (23) of subdivision (a) of Section 5328, and to act on the child's behalf for the purposes of the individual program plan process pursuant to Sections 4646, 4646.5, and 4648 and the fair hearing process pursuant to Chapter 7 (commencing with Section 4700) of Division 4.5, and as set forth in the court order.

(d) (1) A minor may not be removed from the physical custody of the minor's parent or guardian as the result of an order of wardship made pursuant to Section 602 unless the court finds that a less restrictive, alternative disposition for the ward is unsuitable. In making this determination, the court shall consider all relevant and material evidence, including, but not limited to, the

recommendations of counsel, the probation department, and any other agency or individual designated by the court to advise on the appropriate disposition of the case.

(2) When considering an order of removal or continued removal based on the evidence specified in paragraph (1), the court shall consider all of the following:

(A) Whether reasonable efforts were made to eliminate the need for removal, or continued removal, of the child from the home.

(B) Whether services could be provided to enable the child's parent or legal guardian to obtain assistance that may be needed to effectively provide the care and control necessary for the child to return home in lieu of an order of removal.

(3) If the court orders the removal of the minor under this section, the court shall state on the record the reasons for its decision, including the reasons supporting the court's finding that a less restrictive, alternative disposition for the ward is unsuitable. The court shall further specify how it weighed the factors specified in paragraph (2). The court shall also set forth the reasons in an order entered upon the minutes if requested by either party or in any case in which the proceedings are not being recorded electronically or reported by a court reporter.

(4) If the minor is removed from the physical custody of the minor's parent or guardian as the result of an order of wardship made pursuant to Section 602, the order shall specify that the minor may not be held in physical confinement for a period in excess of the middle term of imprisonment which could be imposed upon an adult convicted of the offense or offenses which brought or continued the minor under the jurisdiction of the juvenile court.

(5) As used in this section and in Section 731, "maximum term of imprisonment" means the middle of the three time periods set forth in paragraph (3) of subdivision (a) of Section 1170 of the Penal Code, but without the need to follow the provisions of subdivision (b) of Section 1170 of the Penal Code or to consider time for good behavior or participation pursuant to Sections 2930, 2931, and 2932 of the Penal Code, plus enhancements which must be proven if pled.

(6) If the court elects to aggregate the period of physical confinement on multiple counts or multiple petitions, including previously sustained petitions adjudging the minor a ward within Section 602, the "maximum term of imprisonment" shall be the aggregate term of imprisonment specified in subdivision (a) of Section 1170.1 of the Penal Code, which includes any additional term imposed pursuant to Section 667, 667.5, 667.6, or 12022.1 of the Penal Code, and Section 11370.2 of the Health and Safety Code.

(7) If the charged offense is a misdemeanor or a felony not included within the scope of Section 1170 of the Penal Code, the "maximum term of imprisonment" is the middle term of imprisonment prescribed by law.

(8) "Physical confinement" means placement in a juvenile hall, ranch, camp, forestry camp or secure juvenile home pursuant to Section 730, or in a secure youth treatment facility pursuant to

Section 875, or in any institution operated by the Department of Corrections and Rehabilitation, Division of Juvenile Justice.

(9) This section does not limit the power of the court to retain jurisdiction over a minor and to make appropriate orders pursuant to Section 727 for the period permitted by Section 607.

SEC. 6. Section 730 of the Welfare and Institutions Code is amended to read:

730. (a) (1) When a minor is adjudged a ward of the court on the ground that they are a person described by Section 602, the court may order any of the types of treatment referred to in Section 727, and as an additional alternative, may commit the minor to a juvenile home, ranch, camp, or forestry camp. The court shall comply with the requirements of subdivision (d) of Section 726 if the court orders a commitment to a juvenile home, ranch, camp, or forestry camp. If there is no county juvenile home, ranch, camp, or forestry camp within the county, the court may commit the minor to the county juvenile hall. In addition, the court may also make any of the following orders:

(A) Order the ward to make restitution.

(B) Commit the ward to a sheltered-care facility.

(C) Order that the ward and the ward's family or guardian participate in a program of professional counseling as arranged and directed by the probation officer as a condition of continued custody of the ward.

(D) Order placement of the ward at the Pine Grove Youth Conservation Camp if the ward meets the placement criteria, the county has entered into a contract with the Department of Corrections and Rehabilitation, either directly or through another county, the department has found the ward amenable, and there is space and resources available for the placement. The county probation department shall receive approval from the department before transporting the ward to the camp. The department shall immediately notify the county probation department if the ward is no longer amenable for continued camp placement and coordinate the immediate return of the ward to the county of jurisdiction.

(2) A court shall not commit a juvenile to any juvenile facility for a period that exceeds the middle term of imprisonment that could be imposed upon an adult convicted of the same offense.

(b) When a ward described in subdivision (a) is placed under the supervision of the probation officer, or committed to the care, custody, and control of the probation officer, or the court orders the youth on unsupervised probation pursuant to paragraph (2) of subdivision (a) of Section 727, the court may make any and all reasonable orders for the conduct of the ward, including conditions of probation that shall meet all of the following requirements:

(1) The conditions are individually tailored, developmentally appropriate, and reasonable.

(2) The burden imposed by the conditions shall be proportional to the legitimate interests served by the conditions.

(3) The conditions are determined by the court to be fitting and proper to the end that justice may be done and the reformation and rehabilitation of the ward enhanced.

(c) When a ward described in subdivision (a) is placed under the supervision of the probation officer or committed to the care, custody, and control of the probation officer, and is required as a condition of probation to participate in community service or graffiti cleanup, the court may impose a condition that if the minor unreasonably fails to attend or unreasonably leaves before completing the assigned daily hours of community service or graffiti cleanup, a law enforcement officer may take the minor into custody for the purpose of returning the minor to the site of the community service or graffiti cleanup.

(d) When a minor is adjudged or continued as a ward of the court on the ground that the ward is a person described by Section 602 by reason of the commission of rape, sodomy, oral copulation, or an act of sexual penetration specified in Section 289 of the Penal Code, the court shall order the minor to complete a sex offender treatment program, if the court determines, in consultation with the county probation officer, that suitable programs are available. In determining what type of treatment is appropriate, the court shall consider all of the following: the seriousness and circumstances of the offense, the vulnerability of the victim, the minor's criminal history and prior attempts at rehabilitation, the sophistication of the minor, the threat to public safety, the minor's likelihood of reoffending, and any other relevant information presented. If ordered by the court to complete a sex offender treatment program, the minor shall pay all or a portion of the reasonable costs of the sex offender treatment program after a determination is made of the ability of the minor to pay.

SEC. 7. Section 875 of the Welfare and Institutions Code is amended to read:

875. (a) In addition to the types of treatment specified in Sections 727 and 730, commencing July 1, 2021, the court may order that a ward who is 14 years of age or older be committed to a secure youth treatment facility for a period of confinement described in subdivision (b) if the ward meets all of the following criteria:

(1) The juvenile is adjudicated and found to be a ward of the court based on an offense listed in subdivision (b) of Section 707 that was committed when the juvenile was 14 years of age or older.

(2) The adjudication described in paragraph (1) is the most recent offense for which the juvenile has been adjudicated.

(3) The court has made a finding on the record that a less restrictive, alternative disposition for the ward is unsuitable. In determining this, the court shall consider all relevant and material evidence, including the recommendations of counsel, the probation department, and any other agency or individual designated by the court to advise on the appropriate disposition of the case. The court shall additionally make its determination based on all of the following criteria:

(A) The severity of the offense or offenses for which the ward has been most recently adjudicated, including the ward's role in the offense, the ward's behavior, and harm done to victims.

(B) The ward's previous delinquent history, including the adequacy and success of previous attempts by the juvenile court to rehabilitate the ward.

(C) Whether the programming, treatment, and education offered and provided in a secure youth treatment facility is appropriate to meet the treatment and security needs of the ward.

(D) Whether the goals of rehabilitation and community safety can be met by assigning the ward to an alternative, less restrictive disposition that is available to the court.

(E) The ward's age, developmental maturity, mental and emotional health, sexual orientation, gender identity and expression, and any disabilities or special needs affecting the safety or suitability of committing the ward to a term of confinement in a secure youth treatment facility.

(b) (1) In making its order of commitment for a ward, the court shall set a baseline term of confinement for the ward that is based on the most serious recent offense for which the ward has been adjudicated. The baseline term of confinement shall represent the time in custody necessary to meet the developmental and treatment needs of the ward and to prepare the ward for discharge to a period of probation supervision in the community. The baseline term of confinement for the ward shall be determined according to offense-based classifications that are approved by the Judicial Council, as described in subdivision (h). Pending the development and adoption of offense-based classifications by the Judicial Council, the court shall set a baseline term of confinement for the ward utilizing the discharge consideration date guidelines applied by the Department of Corrections and Rehabilitation, Division of Juvenile Justice prior to its closure and as set forth in Sections 30807 to 30813, inclusive, of Title 9 of the California Code of Regulations. These guidelines shall be used only to determine a baseline confinement time for the ward and shall not be used or relied on to modify the ward's confinement time in any manner other than as provided in this section. The court may, pending the adoption of Judicial Council guidelines, modify the initial baseline term with a deviation of plus or minus six months. The baseline term shall also be subject to modification in progress review hearings as described in subdivision (e).

(2) For youth transferred from the Division of Juvenile Justice and committed to a secure youth treatment facility, the baseline term of confinement shall not exceed a youth's projected juvenile parole board date as defined in paragraph (12) of Section 30800 of Title 9 of the California Code of Regulations, at the time of their transfer from the Division of Juvenile Justice. Youth shall receive credit against their secure youth treatment facility baseline term for all programs completed or substantially completed at the Division of Juvenile Justice, as reflected in the transition report completed by the Division of Juvenile Justice.

(c) (1) In making its order of commitment, the court shall additionally set a maximum term of confinement for the ward based upon the facts and circumstances of the matter or matters that brought or continued the ward under the jurisdiction of the court and as deemed appropriate to

achieve rehabilitation. The maximum term of confinement shall represent the longest term of confinement in a facility that the ward may serve subject to the following:

(A) A ward committed to a secure youth treatment facility under this section shall not be held in secure confinement beyond 23 years of age, or two years from the date of the commitment, whichever occurs later. However, if the ward has been committed to a secure youth treatment facility based on adjudication for an offense or offenses for which the ward, if convicted in adult criminal court, would face an aggregate sentence of seven or more years, the ward shall not be held in secure confinement beyond 25 years of age, or two years from the date of commitment, whichever occurs later.

(B) The maximum term of confinement shall not exceed the middle term of imprisonment that can be imposed upon an adult convicted of the same offense or offenses. If the court elects to aggregate the period of physical confinement on multiple counts or multiple petitions, including previously sustained petitions adjudging the minor a ward within Section 602, the maximum term of confinement shall be the aggregate term of imprisonment specified in subdivision (a) of Section 1170.1 of the Penal Code, which includes any additional term imposed pursuant to Section 667, 667.5, 667.6, or 12022.1 of the Penal Code, and Section 11370.2 of the Health and Safety Code.

(C) Precommitment credits for time served must be applied against the maximum term of confinement as set pursuant to this subdivision.

(2) For purposes of this section, "maximum term of confinement" has the same meaning as "maximum term of imprisonment," as defined in paragraph (5) of subdivision (d) of Section 726.

(d) (1) Within 30 judicial days of making an order of commitment to a secure youth treatment facility, the court shall receive, review, and approve an individual rehabilitation plan that meets the requirements of paragraph (2) for the ward that has been submitted to the court by the probation department and any other agencies or individuals the court deems necessary for the development of the plan. The plan may be developed in consultation with a multidisciplinary team of youth service, mental and behavioral health, education, and other treatment providers who are convened to advise the court for this purpose. The prosecutor and the counsel for the ward may provide input in the development of the rehabilitation plan prior to the court's approval of the plan. The plan may be modified by the court based on all of the information provided.

(2) An individual rehabilitation plan shall do all of the following:

(A) Identify the ward's needs in relation to treatment, education, and development, including any special needs the ward may have in relation to health, mental or emotional health, disabilities, or gender-related or other special needs.

(B) Describe the programming, treatment, and education to be provided to the ward in relation to the identified needs during the commitment period.

(C) Reflect, and be consistent with, the principles of trauma-informed, evidence-based, and culturally responsive care.

(D) The ward and their family shall be given the opportunity to provide input regarding the needs of the ward during the identification process stated in subparagraph (A), and the opinions of the ward and the ward's family shall be included in the rehabilitation plan report to the court.

(e) (1) (A) The court shall, during the term of commitment, including any term spent in a less restrictive program pursuant to subdivision (f), schedule and hold a progress review hearing for the ward not less frequently than once every six months. In the review hearing, the court shall evaluate the ward's progress in relation to the rehabilitation plan and shall determine whether the baseline term of confinement is to be modified. The court shall consider the recommendations of counsel, the probation department and any behavioral, educational, or other specialists having information relevant to the ward's progress. At the conclusion of each review hearing, upon making a finding on the record, the court may order that the ward remain in custody for the remainder of the baseline term or may order that the ward's baseline term or previously modified baseline term be modified downward by a reduction of confinement time not to exceed six months for each review hearing. The court may additionally order that the ward be assigned to a less restrictive program, as provided in subdivision (f). The determination of whether the baseline term will be modified, or whether a youth will be assigned to a less restrictive program, is a judicial decision and the juvenile court's discretion may not be limited by stipulation of the parties at any time.

(B) If the ward is already assigned to a less restrictive program, the court may, based on the ward's progress, order a reduction in the length of time the ward is to remain in the less restrictive program prior to a probation discharge hearing. If the court determines that ward has failed materially to comply with the court-ordered conditions of placement in the less restrictive program, the court may modify the order of placement in the less restrictive program as provided in paragraph (2) of subdivision (f).

(2) The ward's confinement time, including time spent in a less restrictive program described in subdivision (f), shall not be extended beyond the baseline confinement term, or beyond a modified baseline term, for disciplinary infractions or other in-custody behaviors. Any infractions or behaviors shall be addressed by alternative means, which may include a system of graduated sanctions for disciplinary infractions adopted by the operator of a secure youth treatment facility and subject to any relevant state standards or regulations that apply to juvenile facilities generally.

(3) The court shall, at the conclusion of the baseline confinement term, including any modified baseline term, hold a probation discharge hearing for the ward. For a ward who has been placed in a less restrictive program described in subdivision (f), the probation discharge hearing shall occur at the end of the period, or modified period, of placement that has been ordered by the court. At the discharge hearing, the court shall review the ward's progress toward meeting the goals of the individual rehabilitation plan and the recommendations of counsel, the probation department, and any other agencies or individuals having information the court deems necessary. At the conclusion of the hearing, the court shall order that the ward be discharged to a period of probation supervision

in the community under conditions approved by the court, unless the court finds that the ward constitutes a substantial risk of imminent harm to others in the community if released from custody. If the court so finds, the ward may be retained in custody in a secure youth treatment facility for up to one additional year of confinement, subject to the review hearing and probation discharge hearing provisions of this subdivision and subject to the maximum confinement provisions of subdivision (c).

(4) If the ward is discharged to probation supervision, the court shall determine the reasonable conditions of probation that are suitable to meet the developmental needs and circumstances of the ward and to facilitate the ward's successful reentry into the community. The court shall periodically review the ward's progress under probation supervision and shall make any additional orders deemed necessary to modify the program of supervision in order to facilitate the provision of services or to otherwise support the ward's successful reentry into the community. If the court finds that the ward has failed materially to comply with the reasonable orders of probation imposed by the court, the court may order that the ward be returned to a juvenile facility or to a placement described in subdivision (f) for a period not to exceed either the remainder of the baseline term, including any court-ordered modifications, or six months, whichever is longer, and in any case not to exceed the maximum confinement limits of subdivision (c).

(f) (1) Upon a motion from the probation department or the ward, the court may order that the ward be transferred from a secure youth treatment facility to less restrictive program, such as a halfway house, a camp or ranch, or a community residential or nonresidential service program. The purpose of a less restrictive program is to facilitate the safe and successful reintegration of the ward into the community. The court shall consider the transfer request at the next scheduled treatment review hearing or at a separately scheduled hearing. The court shall consider the recommendations of the probation department on the proposed change in placement. Approval of the request for a less restrictive program shall be made only upon the court's determination that the ward has made substantial progress toward the goals of the individual rehabilitation plan described in subdivision (d) and that placement is consistent with the goals of youth rehabilitation and community safety. In making its determination, the court shall consider both of the following factors:

(A) The ward's overall progress in relation to the rehabilitation plan during the period of confinement in a secure youth treatment facility.

(B) The programming and community transition services to be provided, or coordinated by the less restrictive program, including, but not limited to, any educational, vocational, counseling, housing, or other services made available through the program.

(2) In any order transferring the ward from a secure youth treatment facility to a less restrictive program, the court may require the ward to observe any conditions of performance or compliance with the program that are reasonable and appropriate in the individual case and that are within the capacity of the ward to perform. The court shall set the length of time the ward is to remain in a less restrictive program, not to exceed the remainder of the baseline or modified baseline term, prior to a probation discharge hearing described in subdivision (e). If, after placement in a less

restrictive program, the court determines that the ward has materially failed to comply with the court-ordered conditions of placement in the program, the court may modify the terms and conditions of placement in the program or may order the ward to be returned to a secure youth treatment facility for the remainder of the baseline term, or modified baseline term, and subject to further periodic review hearings, as provided in subdivision (e) and to the maximum confinement provisions of subdivision (c). If the ward is returned to the secure youth treatment facility under the provisions of this paragraph, the ward's baseline or modified baseline term shall be adjusted to include credit for the time served by the ward in the less restrictive program.

(g) A secure youth treatment facility, as described in this section, shall meet the following criteria:

(1) The facility shall be a secure facility that is operated, utilized, or accessed by the county of commitment to provide appropriate programming, treatment, and education for wards having been adjudicated for the offenses specified in subdivision (a).

(2) The facility may be a stand-alone facility, such as a probation camp or other facility operated under contract with the county, or with another county, or may be a unit or portion of an existing county juvenile facility, including a juvenile hall or probation camp, that is configured and programmed to serve the population described in subdivision (a) and is in compliance with the standards described in paragraph (3).

(3) The Board of State and Community Corrections shall by July 1, 2023, review existing juvenile facility standards and modify or add standards for the establishment, design, security, programming and education, and staffing of any facility that is utilized or accessed by the court as a secure youth treatment facility under the provisions of this section. The standards shall be developed by the board with the coordination and concurrence of the Office of Youth and Community Restoration established by Section 2200. The standards shall specify how the facility may be used to serve or to separate juveniles, other than juveniles described in subdivision (a) serving baseline confinement terms, who may also be detained in or committed to the facility or to some portion of the facility. Pending the final adoption of these modified standards, a secure youth treatment facility shall comply with applicable minimum standards for juvenile facilities in Title 15 and Title 24 of the California Code of Regulations.

(4) A county proposing to establish a secure youth treatment facility for wards described in subdivision (a) shall notify the Board of State and Community Corrections of the operation of the facility and shall submit a description of the facility to the board in a format designated by the board. Commencing July 1, 2022, the Board of State and Community Corrections shall conduct a biennial inspection in accordance with Section 209 of each secure youth treatment facility that was used for the confinement of juveniles placed pursuant to subdivision (a) during the preceding calendar year. To the extent new standards are not yet in place, the board shall utilize the standards in existing regulations.

(5) In lieu of establishing its own secure youth treatment facility, a county may contract with another county having a secure youth treatment facility to accept commitments of wards described in subdivision (a).

(6) A county may establish a secure youth treatment facility to serve as a regional center for commitment of juveniles by one or more other counties on a contract payment basis.

(h) (1) By July 1, 2023, the Judicial Council shall develop and adopt a matrix of offense-based classifications to be applied by the juvenile courts in all counties in setting the baseline confinement terms described in subdivision (b). Each classification level or category shall specify a set of offenses within the level or category that is linked to a standard baseline term of years to be assigned to youth, based on their most serious recent adjudicated offense, who are committed to a secure youth treatment facility as provided in this section. The individual baseline term of years to be assigned in each case may be derived from a standard range of years for each offense level or category as designated by the Judicial Council. The classification matrix may provide for upward or downward deviations from the baseline term and may also provide for a system of positive incentives or credits for time served. In developing the matrix, the Judicial Council shall be advised by a working group of stakeholders, which shall include representatives from prosecution, defense, probation, behavioral health, youth service providers, youth formerly incarcerated in the Division of Juvenile Justice, and youth advocacy and other stakeholders and organizations having relevant expertise or information on dispositions and sentencing of youth in the juvenile justice system. In the development process, the Judicial Council shall also examine and take into account youth sentencing and length-of-stay guidelines or practices adopted by other states or recommended by organizations, academic institutions, or individuals having expertise or having conducted relevant research on dispositions and sentencing of youth in the juvenile justice system.

(2) Upon final adoption by the Judicial Council, the matrix of offense-based classifications shall be applied in a standardized manner by juvenile courts in each county in cases where the court is required to set a baseline confinement term under subdivision (b) for wards who are committed to a secure youth treatment facility. The discharge consideration date guidelines of the Division of Juvenile Justice that were applied on an interim basis, as provided in subdivision (b), shall not thereafter be utilized to determine baseline confinement terms for wards who are committed to a secure youth treatment facility under the provisions of this section.

(i) A court shall not commit a juvenile to any juvenile facility, including a secure youth treatment facility as defined in this section, for a period that exceeds the middle term of imprisonment that could be imposed upon an adult convicted of the same offense or offenses.

(j) A person who is 25 years of age or older shall not be committed to or detained in a county juvenile facility, unless the court finds that such a commitment or detention is in the best interest of that person and does not find that it would create a risk to the other youth in the juvenile facility. A juvenile court exercising jurisdiction over a person who is 25 years of age or older may order commitment or detention of the person into an adult facility, including a jail or other facility established for the confinement of adults, or into a less restrictive program, as defined in subdivision (f), if the person is otherwise eligible for that program.

(k) Upon return to local custody, a person who was, prior to July 1, 2023, sentenced to state prison and was found to be a ward of the court and committed to the Division of Juvenile Justice, shall not be committed or detained in a juvenile facility, unless the juvenile court with jurisdiction over that person finds it is in the person's best interest and does not find that it would create a risk to the other youth in the juvenile facility. A juvenile court exercising jurisdiction over the commitment or detention of a person described in this subdivision may order the person into an adult facility, including a jail or other facility established for the confinement of adults, a less restrictive program, as defined in section (f), if the person is otherwise eligible for that program, or returned to the Department of Corrections and Rehabilitation pursuant to subdivision (f) of Section 1732.9.

Date of Hearing: June 23, 2026
Counsel: Mary Kennedy

ASSEMBLY COMMITTEE ON PUBLIC SAFETY
Nick Schultz, Chair

SB 1015 (Strickland) – As Amended April 9, 2026

SUMMARY: Makes it an alternate felony-misdemeanor offense, also known as a "wobbler," for an adult to recruit a minor to commit an illegal act against another minor or to solicit physical harm or sexual conduct from a minor, or who uses a minor to facilitate any such acts and allows a minor who coerces another minor to engage in sexual conduct or obtain an image of an intimate body part to be prosecuted for extortion. Specifically, **this bill**:

1) Provides that any adult who, via any method of communication, recruits, induces, coerces, or persuades a minor to commit an illegal act against another minor, or to solicit physical harm, sexual conduct, or images of an intimate body part, from another minor, or who utilizes a minor as a conduit of communication to facilitate any of the foregoing is guilty of wobbler.

2) Provides that the exemption for minors in existing extortion law does not apply in cases where the minor has knowingly threatened, intimidated, or coerced another minor to cause any physical harm, engage in any sexual conduct, or obtain an image of an intimate body part from another minor, including an image of an intimate body part that is produced by artificial intelligence (AI) and depicts the identity of another minor.

EXISTING LAW:

1) Provides that a person who causes, induces, or persuades, or attempts to cause, induce, or persuade, a person who is a minor at the time of commission of the offense to engage in a commercial sex act, with the intent to effect or maintain a violation of several specified crimes related to sexual misconduct and extortion is guilty of human trafficking, as specified. (Pen. Code, § 236.1, subd. (c).)

2) Provides that any person who intentionally gives, transports, provides, or makes available, or who offers to give, transport, provide, or make available to another person, a child under the age of 16 for the purpose of any lewd or lascivious act, as defined, or who causes, induces, or persuades a child under the age of 16 to engage in such an act with another person, is guilty of a felony and shall be imprisoned in the state prison for a term of three, six, or eight years, and by a fine not to exceed $15,000. (Pen. Code, § 266j.)

3) Provides that every person who knows, should have known, or believes that another person is a minor, and who knowingly distributes, sends, causes to be sent, exhibits, or offers to distribute or exhibit by any means, including by physical delivery, telephone, electronic communication, or in person, any harmful matter that depicts a minor or minors engaging in sexual conduct, to the other person with the intent of arousing, appealing to, or gratifying the lust or passions or sexual desires of that person or of the minor, and with the intent or for the purposes of engaging in sexual intercourse, sodomy, or oral copulation with the other person,

or with the intent that either person touch an intimate body part of the other, is guilty of a misdemeanor, punishable by imprisonment in a county jail not exceeding one year, or is guilty of a felony, punishable by imprisonment in the state prison for two, three, or five years. (Pen. Code, § 288.2, subd. (a).)

4) Provides that for the purposes of the above provision, an intimate body part includes the sexual organ, anus, groin, or buttocks of any person, or the breasts of a female. (Pen. Code, § 288.2, subd. (d).)

5) Provides that every person who contacts or communicates with a minor, or attempts to contact or communicate with a minor, who knows or reasonably should know that the person is a minor, with intent to commit specified sexual or violent offenses involving the minor shall be punished by imprisonment in the state prison for the term prescribed for an attempt to commit the intended offense. (Pen. Code, § 288.3, subd. (a).)

6) Provides that for the purposes of the above crime, "contacts or communicates with" shall include direct and indirect contact or communication that may be achieved personally or by use of an agent or agency, any print medium, any postal service, a common carrier or communication common carrier, any electronic communications system, or any telecommunications, wire, computer, or radio communications device or system. (Pen. Code, § 288.3, subd. (b).)

7) Provides that a person is guilty of sexual exploitation of a child if that person knowingly develops, duplicates, prints, or exchanges any representation of information, data, or image, including, but not limited to, any film, filmstrip, photograph, negative, slide, photocopy, videotape, video laser disc, computer hardware, computer software, computer floppy disc, data storage media, CD-ROM, or computer-generated equipment or any other computer-generated image that contains or incorporates in any manner, any film, filmstrip, or any digitally altered or artificial-intelligence-generated matter that depicts a person under 18 years of age engaged in an act of sexual conduct, and sets forth a definition of "sexual conduct," as provided. (Pen. Code, § 311.3, subds. (a), (c).)

8) Provides that every person who, with knowledge that a person is a minor, or who, while in possession of any facts on the basis of which they should reasonably know that the person is a minor, hires, employs, or uses the minor to do or assist in specified acts relating to the creation and dissemination of child sexual abuse material (CSAM), shall be punished by imprisonment in the county jail for up to one year, or by a fine not exceeding two thousand dollars ($2,000), or by both that fine and imprisonment, or by imprisonment in the state prison. (Pen. Code, § 311.4, subd. (a).)

9) Provides that every person who, with knowledge that a person is a minor under 18 years of age, or who, while in possession of any facts on the basis of which they should reasonably know that the person is a minor under 18 years of age, knowingly promotes, employs, uses, persuades, induces, or coerces a minor under 18 years of age, or any parent or guardian of a minor under 18 years of age who is under their control who knowingly permits the minor, to engage in or assist others to engage in either posing or modeling alone or with others for purposes of preparing any representation of information, data, or image, including, but not limited to, any film, filmstrip, photograph, negative, slide, photocopy, videotape, video laser disc, computer hardware, computer software, computer floppy disc, data storage media, CD-

ROM, or computer-generated equipment or any other computer-generated image that contains or incorporates in any manner, any film, filmstrip, digitally altered or AI-generated matter, or live performance, involving sexual conduct by a minor under 18 years of age alone or with other persons or animals, for commercial purposes, is guilty of a felony and shall be punished by imprisonment in the state prison for three, six, or eight years. (Pen. Code, § 311.4, subd. (b).)

10) Provides that every person who, with knowledge that a person is a minor under 18 years of age, or who, while in possession of any facts on the basis of which they should reasonably know that the person is a minor under 18 years of age, knowingly promotes, employs, uses, persuades, induces, or coerces a minor under 18 years of age, or any parent or guardian of a minor under 18 years of age who is under their control who knowingly permits the minor, to engage in or assist others to engage in either posing or modeling alone or with others for purposes of preparing any representation of information, data, or image, including, but not limited to, any film, filmstrip, photograph, negative, slide, photocopy, videotape, video laser disc, computer hardware, computer software, computer floppy disc, data storage media, CD-ROM, or computer-generated equipment or any other computer-generated image that contains or incorporates in any manner, any film, filmstrip, digitally altered or AI-generated matter, or live performance, involving sexual conduct by a minor under 18 years of age alone or with other persons or animals, is guilty of a felony. (Pen. Code, § 311.4, subd. (c).)

11) Makes it a crime for an individual to solicit, or agree to engage in, or engage in, an act of prostitution with another person who is a minor in exchange for the individual providing compensation, money, or anything of value to the minor. An individual agrees to engage in an act of prostitution when, with specific intent to so engage, the individual manifests an acceptance of an offer or solicitation by someone who is a minor to so engage, regardless of whether the offer or solicitation was made by a minor who also possessed the specific intent to engage in an act of prostitution. (Pen. Code, § 647, subd. (b)(3).)

12) Provides that if the crime of solicitation or agreeing to engage in prostitution is committed by a defendant who is 18 years of age or older, the person who was solicited was a minor at the time of the offense, and the defendant knew or should have known that the person who was solicited was a minor at the time of the offense, the violation is punishable by imprisonment in a county jail for not less than two days and not more than one year, or by a fine not exceeding $10,000, or by both that fine and imprisonment, except as provided. (Pen. Code, § 647, subd. (l)(1).)

13) Makes it a wobbler if the crime specified above was committed by a defendant 18 years of age or older and the solicited minor was under 16 years of age at the time of the offense, or the person solicited was under 18 years of age at the time of the offense and the person solicited was caused, induced, or persuaded at the time of the solicitation to engage in a specified commercial sex act. (Pen. Code, § 647, subd (l)(2).)

14) Makes it a crime for a person to annoy or molest a child under 18 years of age, punishable as a misdemeanor by up to 1 year in county jail, a fine of $5,000, or both, or as a wobbler if the defendant enters a home without consent. (Pen. Code, § 647.6, subds. (a), (b).)

15) Provides that every person 18 years of age or older who, in any voluntary manner, solicits, induces, encourages, or intimidates any minor with the intent that the minor shall commit a

specified felony, shall be punished by imprisonment in county jail for a period of 3, 5, or 7 years, but if the minor is 16 years of age or older at the time of the offense, this penalty only applies when the adult is at least five years older than the minor at the time the offense is committed. (Pen. Code § 653j, subd. (a).)

16) Provides that every person who, with intent to place another person in reasonable fear for his or her safety, or the safety of the other person's immediate family, by means of an electronic communication device, and without consent of the other person, and for the purpose of imminently causing that other person unwanted physical contact, injury, or harassment, by a third party, electronically distributes, publishes, e-mails, hyperlinks, or makes available for downloading, personal identifying information, including, but not limited to, a digital image of another person, or an electronic message of a harassing nature about another person, which would be likely to incite or produce that unlawful action, is guilty of a misdemeanor punishable by up to one year in a county jail, by a fine of not more than $1,000, or by both that fine and imprisonment. (Pen. Code, § 653.2, subd. (a).)

17) Provides that extortion is the obtaining of property or other consideration from another, with his or her consent, or the obtaining of an official act of a public officer, induced by a wrongful use of force or fear, or under color of official right. (Pen. Code, § 518, subd. (a).)

18) Specifies that "fear," as such will constitute extortion, may be induced by a threat of any of the following:

    a) To do an unlawful injury to the person or property of the individual threatened or of a third person.

    b) To accuse the individual threatened, or a relative of his or her, or a member of his or her family, of a crime.

    c) To expose, or to impute to him, her, or them a deformity, disgrace, or crime.

    d) To report his, her, or their immigration status or suspected immigration status. (Pen. Code, § 519.)

19) Provides that every person who attempts, by means of any threat, such as is specified in the above provision, to extort property or other consideration from another is punishable by imprisonment in the county jail not longer than one year or in the state prison or by fine not exceeding $10,000, or by both such fine and imprisonment. (Pen. Code, § 524.)

20) Defines "consideration," for the purposes of the crime of extortion, to mean anything of value, including the sexual exploitation of a child or an image of an intimate body part, as defined. (Pen. Code, § 518, subd. (b).)

21) Provides that the crime of extortion does not apply to a person under 18 years of age who has obtained consideration consisting of sexual conduct or an image of an intimate body part. (Pen. Code, § 518, subd. (c).)

FISCAL EFFECT: Unknown

COMMENTS:

1) **Sponsor:** Orange County Sheriff's Department

2) **Author's Statement:** According to the author, "Senate Bill 1015 closes a dangerous loophole in California law and gives law enforcement the tools they need to protect vulnerable children. Today, offenders exploit gaps in the extortion statute by manipulating minors into harming or exploiting other children. Existing law does not provide a clear pathway to hold someone accountable for recruiting or coercing a child to act as a conduit for threats, sexual exploitation, or self-harm of another child.

   "As a father, I care deeply about the safety of our children. Violent online predators are targeting kids on social media and gaming platforms, grooming them, coercing them into producing explicit images or engaging in self-harm, and then using that material to blackmail them into exploiting others. SB 1015 creates a felony/misdemeanor offense for anyone who engages in that behavior, explicitly related to sexual conduct, intimate images, and AI-generated content.

   "SB 1015 sends a clear message: the sexual exploitation of minors will not be tolerated. By closing this loophole and strengthening protections against minors, SB 1015 takes meaningful steps to protect our children and keep our communities safe."

3) **Criminal Liability for Using One Minor to Harm Another:** The author believes that there is a "dangerous loophole in the law" that fails to give law enforcement the tools they need to project children. While there is no single generalized statute that covers all the conduct that the author cites as the impetus for this bill, several specific statutes do punish adult offenders for soliciting minors to commit crimes against or engage in illicit sexual conduct with other minors.

   For instance, Penal Code sections 288.2 and 288.3 criminalize sending harmful material depicting sexual conduct to a minor and attempting to contact or attempt to contact a minor with the intent to commit certain sexual or violent offenses (many of which involve minors), respectively. Another provision makes it a felony for any person to cause, induce or persuade a child under 16 to engage in a "lewd or lascivious act" with another person (minor or not), while a series of statutes criminalize a range of conduct related to child sexual abuse material (CSAM), including using a minor to produce or distribute CSAM and inducing or coercing a minor to assist others in engaging in CSAM. (Pen. Code, §§ 311 et seq, Pen. Code, § 311.4) Other relevant statutes make it a crime to "annoy or molest" a minor under 18 (Penal Code Section 647.6, a misdemeanor), to solicit, induce, or intimidate any minor with the intent that the minor commit a specified felony (Penal Code Section 653j, a felony), and to use an electronic device to distribute personal identifying information (including pictures) for the purpose of causing the person injury or harassment by a third party (Penal Code Section 653.2, a misdemeanor).

   In addition to these crimes, prosecutors can also pursue charges under the aiding and abetting statute, which imposes liability for the underlying crime on all individuals who have "advised and encouraged its commission," or who use a so-called "innocent agent" (referring to persons who do not have the mental capacity to possess the requisite criminal intent) as an instrument of a crime. (Pen. Code, § 31.)

4) **Adult recruiting a child to commit illegal acts against another minor:** This makes it a wobbler for an adult to "recruit, induce, coerce or persuade a minor to commit an illegal act against another minor, or to solicit physical harm, sexual conduct, or images of an intimate body part, from another minor, or who utilizes a minor as a conduit of communication to facilitate any of the foregoing." Conduit of communication is defined as a minor whose digital identity or physical presence is used as a medium to transmit, relay, or facilitate the delivery of communications to another minor for the purposes of engaging in the conduct.

   If an adult recruits, induces, coerces, or persuades a minor to and the minor actually commits the illegal act the adult would be considered a co-conspirator for that offense. It is unclear why statute necessary to criminalize that behavior. Would this apply if the minor was recruited, induced, coerced, or persuaded but did not actually commit the act, and if so, should it be punished as a wobbler?

   Are the terms recruit, induce, coerce, or persuade all appropriate to cover behavior that could be charged as a wobbler? Should there always be some sort of inducement or other behavior that puts the minor in the position of thinking they must help the adult harm the other minor?

   The conduct, either sexual in nature or physical, is all illegal so is another provision necessary for law enforcement to be able to prosecute theses offenses?

5) **The Crime of Extortion:** The crime of extortion requires a showing that a person obtained something of value from another with consent but induced by a wrongful use of force or fear, or under color of official right, such as a public official obtaining something valuable under the pretense of their official authority. (Pen. Code, § 518, subd (a).) The "force or fear" must be the controlling reason that the other person consented – if another controlling reason induced the consent, the defendant is not guilty of extortion. (People v Goodman (1958)159 Cal. App2d 5 4,61) California's extortion statute defines "fear" as inducing by a threat to do unlawful injury to person or property, to accuse the individual or a specified relative of committing a crime, to "expose a deformity, disgrace or crime," to expose a secret affecting them, or to report their immigration status. (Pen. Code, § 519.) For the purposes of this provision, a "secret" is a fact unknown to the general public or to someone who might be interested in knowing that fact, and which harms the threatened person's reputation or other interest so greatly that they would be likely to give the defendant anything of value to prevent it from being revealed. (CALCRIM No. 1830. Extortion by Threat or Force. *People v. Lavine* (1931) 115 Cal.App. 289, 295)

   Prior to 2017, the crime of extortion only involved the obtaining of property induced by a wrongful use of force or fear. However, that year the Legislature passed SB 500 (Leyva), Chapter 518, Statutes of 2017, which expanded the crime to include the obtaining of any "consideration," which means anything of value. SB 500 also defined "consideration" to include sexual conduct or an image of an intimate body part.

   SB 500 also included an exemption to the crime of extortion, providing that the crime does not apply to any person under the age of 18 who has obtained consideration consisting of sexual conduct or an image of an intimate body part. The exception to extortion in SB 500 was made specifically to address the situation where one minor asks another to send an inappropriate picture or engage in sexual conduct. The amendment was made in recognition

that teenagers and their underdeveloped brains may behave inappropriately but that felony punishment may not be proportionate.

This bill creates an exception to this exception, allowing for a minor to be charged with extortion when they have knowingly threatened, intimated, or coerced another minor to engage in any sexual conduct, or obtain an image of an intimate body part from another minor, including an image of an intimate body part produced by artificial intelligence. This effectively nullifies the exemption to the crime of extortion for minors.

The exception to the exception that this bill creates applies where a minor has knowingly threatened, intimidated, or coerced another minor to engage in sexual conduct or obtain an intimate image, actually appears to be a lower standard than the rest of the statute that requires extortion be by force or fear. Penal Code Section 519 defines fear for purposes of extortion: unlawful injury to a person or property; accusing the individual or their family member of a crime; exposing or imputing a deformity, disgrace or crime; exposing a secret; or reporting immigration status.

By requiring a threat, intimidation or coercion, the exception in this bill seems to lower the existing standard by, for example, a 16-year-old boy asking his 16-year-old girlfriend to send an inappropriate picture in exchange for prom tickets (coercion); or if she does not send him the picture he will not go to that party she wants him to go to (threat). This is clearly inappropriate and potentially harassing behavior but should it be a felony when the conduct is between minors?

6) **Argument in Support:** According to the *California District Attorneys Association,* "SB 1015 also expands California's extortion statute by explicitly adding sexual conduct, intimate images, and explicit images generated by artificial intelligence (AI) to the categories of conduct that can be used to commit extortion. AI technology can now be used to create explicit deep-fake images from benign photographs posted on social media, leaving any one of us vulnerable to extortion. SB 1015 closes this gap and updates the statute in line with the available technology."

7) **Argument in Opposition:** According to the *San Francisco Public Defender's Office*, "The conduct motivating SB 1015's proposed Penal Code Section 288.6 is covered by various existing laws. Our laws already criminalize any person who contributes to the delinquency of a minor by causing them to engage in illegal conduct. Moreover, our solicitation laws provide stricter sentences for causing any person to commit specified crimes, including causing someone to engage in lewd or lascivious acts with a child. On top of this, anyone who might fall under SB 1015's proposed new crime, likely is already subject to our laws against aiding and abetting crimes or entering a conspiracy to commit a crime. The Legislature should not pass duplicative criminal laws – instead our state should focus our energy on protecting children through thoughtful investments, such as ensuring that every school is well-funded.

"Notably, to the extent that SB 1015 aims to increase sentences for behavior that is already criminalized under current law, the bill will not improve public safety. Harsher sentences do not deter crime, nor do they make victims whole. Even the federal Department of Justice discourages increased punishments, noting that such strategies do little to deter crime.

"Similarly, the provision of SB 1015 expanding extortion liability to minors also flies in the face of existing research and California's best practices. California's current youth justice framework reflects a deliberate shift away from punishment-first responses, underscored by our understanding of minor's neurological development and capacity to mature. Children who misbehave should be held accountable and taught to learn from their mistakes, but they should not be routed through our criminal system which can have devastating impacts on their mental health, educational attainment, and economic security."

8) **Related Legislation:** AB 2683 (Ransom) would have made any adult who solicits or recruits a minor to commit a felony guilty of child endangerment. AB 2683 was held in the Assembly Appropriations Committee.

9) **Prior legislation:**

a) AB 355 (Sanchez), of the 2025-2026 Legislative Session, would have made the treat to post, distribute, or create AI generated images or videos of another enough to cause fear sufficient to constitute extortion. AB 355 was held in the Assembly Appropriations Committee.

b) AB 1856 (Ta), of the 2023-2024 Legislative Session, would have made it a crime for an adult to intentionally create and distribute a deepfake of an intimate body part of another identifiable person. AB 1856 was held in the Senate Appropriations Committee.

c) AB 2791 (Gabriel), of the 2019-2020 Legislative Session, would have made numerous changes to stalking, false emergency reports, and harassment. AB 2791 died in the Assembly Public Safety Committee.

d) SB 500 (Leyva), Chapter 518, Statutes of 2017, expanded the crime of extortion to include not only the obtaining of property, but also the obtaining of other consideration, including sexual conduct or images of intimate body parts.

e) AB 919 (Houston), Chapter 583, Statutes of 2008, made it a misdemeanor to, with the intent to place another person in reasonable fear for his or her safety of the other person's immediate family, by means of electronic communication device, and without consent of the other person, and for the purpose of imminently causing that other person unwanted contact, injury, or harassment by a 3rd party, distributes specified identifying information that would be likely to incite or produce unlawful action.

REGISTERED SUPPORT / OPPOSITION:

Support

Orange County Sheriff's Department (Sponsor)
Arcadia Police Officers' Association
Brea Police Association
Burbank Police Officers' Association
California Association of School Police Chiefs
California Coalition of School Safety Professionals
California District Attorneys Association

California Narcotic Officers' Association
California Police Chiefs Association
California Reserve Peace Officers Association
California State Sheriffs' Association
Claremont Police Officers Association
Corona Police Officers Association
Culver City Police Officers' Association
Fullerton Police Officers' Association
Los Angeles County District Attorney's Office
Los Angeles County Sheriff's Department
Los Angeles School Police Management Association
Los Angeles School Police Officers Association
Murrieta Police Officers' Association
Newport Beach Police Association
Orange County Business Council
Orange County Department of Education
Palos Verdes Police Officers Association
Peace Officers Research Association of California (PORAC)
Placer County Deputy Sheriffs' Association
Pomona Police Officers' Association
Protection of the Educational Rights of Kids
Riverside County District Attorney
Riverside Police Officers Association
Riverside Sheriffs' Association
San Bernardino County Sheriff's Department
San Diego County District Attorney's Office
San Diego County Sheriff's Office
The California Baptist Capitol Ministry

Oppose

ACLU California Action
California Civil Liberties Advocacy
California Coalition for Women Prisoners
California Public Defenders Association
Californians United for a Responsible Budget
Ella Baker Center for Human Rights
Initiate Justice
Justice2jobs Coalition
LA Defensa
Local 148 Los Angeles County Public Defender's Union
San Francisco Public Defender
Sister Warriors Freedom Coalition
Smart Justice California, a Project of Beyond Impact

Analysis Prepared by: Mary Kennedy / PUB. S. / (916) 319-3744

Date of Hearing: June 23, 2026
Counsel: Dustin Weber

ASSEMBLY COMMITTEE ON PUBLIC SAFETY
Nick Schultz, Chair

SB 1022 (Valladares) – As Amended June 15, 2026

SUMMARY: Establishes the California Multidisciplinary Alliance to Stop Trafficking Act (California MAST) task force to review collaborative models between governmental and nongovernmental organizations for protecting victims and survivors of trafficking, among other related duties. Specifically, **this bill**:

1) Establishes the California MAST to do all of the following:

   a) Review collaborative models between governmental and nongovernmental organizations for protecting victims and survivors of trafficking.

   b) Map the progress of the state in preventing trafficking, providing comprehensive assistance to victims and survivors of trafficking, and prosecuting persons engaged in trafficking.

   c) Provide recommendations to strengthen state and local efforts to address the issues of human trafficking, including the role of forced criminality in human trafficking.

   d) Prepare recommendations for all of the following:

      i) The cost of conducting a statewide human trafficking prevalence study that identifies the types of trafficking, including sex and labor trafficking, and analyzes the characteristics of trafficked persons, including citizenship, gender, age, race, and any other factors the task force determines are necessary to understand the scope of human trafficking in California.

      ii) The best entity to conduct the study.

      iii) How often the study should be conducted.

   e) The chair of the task force shall be appointed by the task force. The Office of Emergency Services shall provide staff and support for the task force, to the extent that resources are available.

   f) The task force shall be composed of the following representatives or their designees:

      i) The Attorney General.

      ii) The Secretary of Labor and Workforce Development.

iii) The Director of Social Services.

iv) The Director of Health Care Services.

v) The Director of Emergency Services.

vi) The State Public Health Officer.

vii) The Director of Housing and Community Development.

viii) The Director of Transportation.

ix) The Director of Civil Rights.

x) A representative from the California Child Welfare Council.

xi) One representative from the California District Attorneys Association.

xii) One representative from the California Public Defenders Association.

xiii) The Speaker of the Assembly shall appoint one representative from a human rights organization.

xiv) The Senate Committee on Rules shall appoint one representative from an immigrant rights organization.

xv) The Governor shall appoint all of the following:

(1) One survivor of labor trafficking.

(2) One survivor of sex trafficking.

(3) One survivor of familial trafficking. For the purposes of this section, familial trafficking occurs when a victim is trafficked by a family member or caregiver, or when a minor victim is sold by that minor's family member or caregiver to a third-party trafficker.

(4) One representative from a northern California organization that provides services to victims of human trafficking.

(5) One representative from a southern California organization that provides services to victims of human trafficking.

(6) One representative from a central California organization that provides services to victims of human trafficking.

(7) One university researcher with expertise related to human trafficking.

(8) One mental health expert with expertise related to human trafficking.

xvi) The Attorney General shall appoint three representatives from tribal organizations from northern, central, and southern California.

g) Whenever possible, members of the task force shall have experience providing services to trafficked persons or have knowledge of human trafficking issues, including as a survivor of human trafficking.

h) The members of the task force shall serve at the pleasure of the respective appointing authority. Appointees may be reimbursed for their actual and necessary expenses of participation with approval of the appointing authority.

i) The task force shall meet at least four times. Subcommittees may be formed and meet as necessary. All meetings shall be open to the public. The first meeting of the task force shall be held no later than July 1, 2027.

j) On or before January 1, 2029, and on or before each January 1 thereafter, the task force shall report its findings and recommendations to the Office of Emergency Services, the Governor, the Attorney General, and the Legislature. At the request of any member, the report may include minority findings and recommendations.

2) Defines "trafficking" as sex trafficking in which a commercial sex act is induced by force, fraud, or coercion, or in which the person induced to perform such act has not attained 18 years of age; or the recruitment, harboring, transportation, provision, or obtaining of a person for labor or services, through the use of force, fraud, or coercion for the purpose of subjection to involuntary servitude, peonage, debt bondage, or slavery.

3) Makes findings and declarations.

EXISTING LAW:

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

2) States that a person who deprives or violates the personal liberty of another with the intent to commit specified sex crimes including pimping, pandering, or child pornography, is guilty of human trafficking and shall be punished by imprisonment in the state prison for 8, 14, or 20 years and a fine of not more than $500,000. (Pen. Code, § 236.1, subd. (b).)

3) Specifies that a person who causes, induces, or persuades, or attempts to cause, induce, or persuade, a person who is a minor at the time of commission of the offense to engage in a commercial sex act, with the intent to commit specified crimes including pimping, pandering, or child pornography, is guilty of human trafficking. A violation is punishable by imprisonment in the state prison as follows:

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

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

FISCAL EFFECT: Unknown

COMMENTS:

1) **Sponsor**: California Survivor Coalition

2) **Author's Statement**: According to the author, "Senate Bill 1022 establishes the California multidisciplinary Alliance to Stop Trafficking (MAST) Task Force. The Task Force is designed to strengthen the state's response to human trafficking by bringing together state agencies, local partners, service providers, and survivors to review current policies, identify gaps, and provide recommendations for coordinated, survivor-informed policies to prevent trafficking, support victims, and address prosecution. Human trafficking remains a complex crime in California, despite significant state investments, efforts to tackle the issue are often fragmented across agencies and jurisdictions. The lack of coordination creates gaps in victim identification and services, inconsistent reporting and data collection, limited collaboration between law enforcement and service providers, and barriers to addressing the root causes of trafficking. The MAST Task Force will advance a coordinated and survivor-informed approach to strengthen California's leadership in the global fight against human trafficking."

3) **Effect of the Bill**: SB 1022 would establish the California MAST task force. California has a two-decade history with these task forces. In 2005, SB 180 (Keuhl) established the California Alliance to Combat Trafficking and Slavery (California ACTS) Task Force, which was later repealed. In 2019, the Legislature passed SB 35 (Chang) to reestablish the California ACTS Task Force, but Governor Newsom vetoed SB 35. The Governor's veto message read, in part:

> This bill's goals are laudable, and I share the author and proponents' concerns around the scourge of human trafficking in California. Through this year's budget we have invested in services for victims of trafficking, as well as studies on the scope of the problem in certain high incidence counties.
>
> However, any new or reconstituted taskforce such as the one envisioned by the bill should be considered and evaluated through the budget process, not stand-alone legislation.

AB 2553 (Grayson, 2022) would have established the California Multidisciplinary Alliance to Stop Trafficking task force. That bill died in Senate Appropriations.

The MAST Task Force would do the following: 1) review collaborative models between governmental and nongovernmental organizations for protecting victims and survivors of trafficking; 2) map the progress of the state in preventing trafficking, providing comprehensive assistance to victims and survivors of trafficking, and prosecuting persons engaged in trafficking; and 3) provide recommendations to strengthen state and local efforts to address the issue of human trafficking, including the role of forced criminality in human

trafficking. The Office of Emergency Services would staff and support the task force to the extent that resources are available. The chair of the task force would be appointed by the task force.

The task force would have 23 members from across California and its government. Whenever possible, members of the task force should have experience providing services to trafficked persons or have knowledge of human trafficking issues, including as a survivor of human trafficking. The members of the task force would serve at the pleasure of their appointing authority. The task force must meet at least four times and all meetings must be open to the public.

4) **Trafficking Research**: A study by the International Human Rights Clinic at the University of Southern California (USC), using interviews with 42 human trafficking experts, a comprehensive literature review, and public records requests, found that law enforcement operations identify few trafficking victims, emphasizing that operations primarily target sex work and often treat victims as criminals.[1] The National Survivor Network conducted a 2016 survey on the long-term impact of criminal arrests and convictions on survivors of human trafficking.[2] It found that 90.8% of 130 trafficking survivor respondents reported having been arrested and more than half of the respondents reported that their arrests occurred because of trafficking.[3] Notably, immigrant survivors of sex trafficking, regardless of whether they are undocumented, can face deportation due to a misdemeanor prostitution charge.[4] Survivors also report that they are pressured by law enforcement to divulge information, and if they refuse, they are charged with crimes.[5]

   Critics argue that these law enforcement operations are often anti-sex work efforts rebranded as anti-sex trafficking interventions.[6] The USC report recommended that law enforcement reduce anti-trafficking operations and redirect resources to community and public health led approaches to prevent human trafficking, which the report contended are more effective and less harmful to victims.[7]

5) **Argument in Support**: According to the *California Survivor Coalition*, "Human trafficking is not one crime with one face. It is sex trafficking and labor trafficking, CSEC and familial abuse, foreign nationals and U.S. citizens, children and adults. It crosses county lines, agency jurisdictions, and professional silos. And for too long, California's response has reflected exactly that fragmentation—agencies working in isolation, service providers operating without coordination, data that does not speak across systems, and survivors falling through the gaps between them. A statewide, multidisciplinary response is not a luxury. It is the only approach that matches the scale and complexity of the problem.

---

[1] *Over-Policing Sex Trafficking: How U.S. Law Enforcement Should Reform Operations* (Nov. 2021) International Human Rights Clinic at USC Gould School of Law <https://humanrightsclinic.usc.edu/over-policing-sex-trafficking/> [as of June 11, 2026].
[2] *Id. at p. 11*
[3] *Ibid.*
[4] *Ibid.*
[5] *Id.* at p. 12.
[6] *Id.* at p. 11.
[7] *Id.* at p. 52.

"SB 1022 rises to that challenge. By establishing a statewide task force that brings together government agencies, non-profit service providers, and subject matter experts to identify best practices, close service gaps, and strengthen California's coordinated response to trafficking, this bill creates the infrastructure that survivors have long said is missing. The task force's mandate to report findings and recommendations directly to the Governor, the Attorney General, the Legislature, and the Office of Emergency Services means its work will carry weight and reach the decision-makers who can act on it.

"We commend Senator Valladares for her leadership in bringing this bill forward with bipartisan urgency and for her determination to ensure that California finally delivers a coordinated response that survivors deserve.

"SB 1022 also reflects survivor voice. Policy powered by lived experience is not only more just; it is more effective. Survivors understand the gaps in services, the failures of identification, the barriers to exit, and the needs of recovery in ways that no data set or professional report can fully capture.

"The California Survivor Coalition stands ready to support the implementation of SB 1022. We bring the lived expertise of survivors across all trafficking typologies, and we are committed to contributing to a coordinated California response that is survivor-centered, trauma-informed, and built to last. We urge this body to pass SB 1022 and to ensure that, when the task force convenes, survivors are not an afterthought—they are the foundation."

6) **Argument in Opposition**: According to *DecrimSexWorkCA*, "While addressing human trafficking and other forms of coercion and exploitation are valuable goals for the state of California that DecrimSexWorkCA lauds, we have seen countless "Human Trafficking Task Forces" convened that produced counterproductive results–if any.

"Typically, these task forces, especially when primarily comprised of government-representatives and organizations who have a dependent relationship with law enforcement, end up harmfully conflating sex work with human trafficking, even though most sex work happens outside of a trafficking context and most trafficking happens outside of the context of the commercial sex industry. The result is policy recommendations which focus on ultimately "prosecuting persons engaged in [sex] trafficking," even at the cost of failing to take actions which could prevent or reduce trafficking and violence, such as the decriminalization of sex work.

"A human trafficking task force that is not structured to be able to question the criminalization of sex work as a major cause of sex trafficking – or to any way understand the commercial sex industry – will be unable to make any useful recommendations to prevent or reduce sex trafficking, even though sex trafficking is a highly politicized subject and may take up the majority of the task force's time.

"There are productive steps that we can take to address human trafficking, including by trying to keep people's criminal records clear and keep vital resources funded, but this task force seems posed to offer solutions designed to keep survivors in handcuffs and programming, even while the state fails to find the money to adequately fund non-carceral survivor, sex worker, immigrant, transgender, and youth services that have been proven effective.

"The ACLU, UN Working Group on Discrimination Against Women and Girls, Human Rights Watch, and Amnesty International have all published briefs and position statements highlighting how criminalization of sex work directly contributes to sex trafficking, other forms of sexual violence, and the economic and political disenfranchisement of women and gender minorities. At the same time, USC's human rights clinic undertook the more specific task of thoroughly reviewing police practices throughout the U.S. and concluded that law enforcement anti-trafficking efforts utterly fail to reduce, prevent, or identify & deter sex trafficking. Because those operations tend to conflate sex work with sex trafficking, focus primarily on making arrests, and rely on arresting consensual sex workers and their clients, they end up making people more vulnerable to trafficking and making trafficking and other violence in the sex industry harder to identify or prevent.

"A task force composed primarily of government agents, together with a single survivor of sex trafficking, a single survivor of labor trafficking (outside of the commercial sex context) and a single survivor of familial trafficking would be primed to view trafficking in a narrow lens that will be dictated by law enforcement and their close collaborators. It would inevitably preclude upstream solutions to prevent trafficking, such as the decriminalization of sex work, establishment of a right to housing, or radically (and adequately) funding social services for trans people, immigrants, and youth."

7) **Related Legislation**:

a) AB 1245 (Stefani) would require a contractor to certify that the contract complies with specified requirements relating to human trafficking, including certain prohibitions on contractors, contractor employees, subcontractors, subcontractor employees, and their agents.. AB 1245 is pending hearing in the Senate Governmental Organization Committee.

b) AB 1541 (Dixon) would require that the information included on the OpenJustice Web portal include the number of individuals arrested, the number of individuals convicted, and the number of victims of human trafficking, as specified. AB 1541 is pending hearing in the Senate Public Safety Committee.

c) AB 1656 (Davies) would add human trafficking to the list of crimes authorizing good cause continuances. AB 1656 is pending hearing in the Senate Public Safety Committee.

d) AB 1845 (Krell) would require postsecondary educational institutions to include specified human trafficking items to employee training, among other things. AB 1845 is pending hearing in the Senate Education Committee.

e) AB 2720 (Schiavo) would require each law enforcement agency with more than 25 peace officers to designate at least one human trafficking victim support coordinator by January 1, 2028. AB 2720 is pending hearing in the Senate Public Safety Committee.

8) **Prior Legislation**:

a) AB 381 (Stefani), of the 2025-2026 Legislative Session, was nearly identical to AB 1245 above. AB 381 was held in the Senate Appropriations Committee.

b) AB 603 (Alanis), of the 2025-2026 Legislative Session, would have rename the act as the "California Control of Profits of Organized Crime and Human Trafficking Act" and recast its provisions to authorize the forfeiture of property and proceeds acquired through human trafficking without the requirement to establish a pattern of criminal profiteering activity. The hearing on AB 603 in this committee was canceled at the request of the author.

c) AB 633 (Krell), of the 2025-2026 Legislative Session, would have expanded vacatur relief to persons convicted of or arrested for any offense committed when they were under the age of 18 and while they were a victim of human trafficking. The hearing on AB 633 in this committee was canceled at the request of the author.

d) AB 2451 (Elhawary), of the 2025-2026 Legislative Session, would have authorized a child who is or was a victim of human trafficking, and whose parent or guardian has failed or was unable to protect the child, to be adjudged a dependent of the juvenile court, thereby expanding the bases on which a child can be adjudged a dependent child of the juvenile court to explicitly include children who are victims of labor trafficking. AB 2451 was held in the Assembly Human Services Committee.

e) AB 1739 (Sanchez), of the 2023-2024 Legislative Session, would have required the Office of Emergency Services to allocate and award funds to up to 11 district attorney offices that employ a vertical prosecution methodology for the prosecution of human trafficking crimes and that meet other specified criteria, including minimum staffing levels for the program. AB 1739 was held in the Assembly Appropriations Committee.

f) SB 14 (Grove), Chapter 230, Statutes of 2023, included human trafficking of a minor within the definition of a serious felony for all purposes, including for purposes of the Three Strikes Law, except as specified.

g) SB 376 (Rubio), Chapter 109, Statutes of 2023, provided that a victim of human trafficking or abuse has the right to have a human trafficking advocate and a support person of the victim's choosing present at an interview by a law enforcement authority, prosecutor, or the suspect's defense attorney and would require the human trafficking advocate to advise the victim of the applicable limitations on the confidentiality of the victim's communications with the advocate.

h) AB 2553 (Grayson), of the 2021-2022 Legislative Session, was substantially similar to this bill. AB 2553 died in Senate Appropriations.

i) SB 750 (Melendez), of the 2021-2022 Legislative Session, would have established the California Alliance to Combat Trafficking and Slavery (California ACTS) Task Force to collect and organize data on the nature and extent of trafficking of persons in California. The hearing on SB 750 in the Senate Public Safety Committee was canceled at the request of the author.

j) SB 35 (Chang), of the 2019-2020 Legislative Session, would have established the California Alliance to Combat Trafficking and Slavery (California ACTS) Task Force. SB 35 was vetoed by the Governor.

k) SB 180 (Kuehl), Chapter 239, Statutes of 2005, established the California Alliance to Combat Trafficking and Slavery (California ACTS) Task Force.

REGISTERED SUPPORT / OPPOSITION:

Support

California Survivor Coalition (Sponsor)
3strands Global Foundation
Arcadia Police Officers' Association
Brea Police Association
Burbank Police Officers' Association
California Association of School Police Chiefs
California Catholic Conference
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
Little Hoover Commission
Los Angeles School Police Management Association
Los Angeles School Police Officers Association
Los Angeles Unified School District
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

Opposition

Decrimsexworkca (DECRIMSWCA)
Erotic Service Providers Legal, Education, and Research Project
Local 148 Los Angeles County Public Defender's Union

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

Date of Hearing: June 23, 2026
Counsel: Kimberly Horiuchi

ASSEMBLY COMMITTEE ON PUBLIC SAFETY
Nick Schultz, Chair

SB 1100 (Smallwood-Cuevas) – As Introduced February 13, 2026

SUMMARY: Modifies the timeframe in which a clerk of the court must forward a civil grand jury report or related responses to the State Archives, from immediately upon completion to annually. Specifically, **this bill**:

1) Clarifies that a civil grand jury must submit to the presiding judge of the superior court a final report of its findings and recommendations during the fiscal or calendar term.

2) Eliminates the requirement that the clerk of the court forward a final civil grand jury report or compliant response to the State Archivist immediately, and instead requires the county clerk, once a year, and within six months of the end of the grand jury's term of service, to transmit, in a single transfer of a complete set of true copies of all final reports and responses to the reports to the State Archivist.

3) States that the transfer of a complete set of all final report and responses do not require a clerk of the court to create new or consolidated documents.

4) Makes other nonsubstantive technical and conforming changes.

EXISTING LAW:

1) Provides that the people have a right of access to information concerning the conduct of the people's business, and that, to that end, the meetings of public bodies and writings of public officials and agencies are required to be open to public scrutiny. (Cal. Const., art. I, § 3, subd. (b)(1).)

2) Permits a grand jury to issue indictments for felony charges of public officials based on its findings. (Pen. Code, § 917.)[1]

3) Authorizes a grand jury to inquire into the case of every person imprisoned in the jail of the county on a criminal charge and not indicted. (Pen. Code, § 919, subd. (a).)

4) Requires a grand jury to inquire into the condition and management of public prisons within the county. (Pen. Code, § 919, subd. (b).)

---

[1] Penal Code section 917, as written, limits when a grand jury may issue an indictment for an offense that involves a shooting or use of excessive force by a peace officer. (See Pen. Code, § 917(b).) The Court of Appeal for the Third District, however, held this limitation to be unconstitutional. (*People ex rel. Pierson v. Superior Court* (2017) 7 Cal.App.5th 402, 413-415 (prohibiting indictment for certain peace officer offenses "unconstitutionally limits the grand jury's power to proceed in a class of cases").)

5) Requires a grand jury to inquire into the willful or corrupt misconduct in office of public officers of every description within the county. (Pen. Code, § 919, subd. (c).)

6) Authorizes a grand jury to investigate and inquire into all sales and transfers of land, and into the ownership of land, which, under state law, might or should escheat to the State of California. (Pen. Code, § 920.)

7) Requires a grand jury to investigate and report on the operations, accounts, and records of the officers, departments, or functions of the county including those operations, accounts, and records of any special legislative district or other district in the county created pursuant to state law for which the officers of the county are serving in their ex officio capacity as officers of the districts. (Pen. Code, § 925.)

8) Authorizes a grand jury, at any time, to examine the books and records of any incorporated city or joint powers agency located in the county. Specifies that a grand jury may investigate and report upon the operations, accounts, and records of the officers, departments, functions, and the method or system of performing the duties of any such city or joint powers agency and make such recommendations as it deems proper and fit. (Pen. Code, § 925a.)

9) Permits a grand jury to investigate and report on the operations, accounts, and records of the officers, departments, or functions of the county; to examine county books and records and retain expert witnesses as needed; and to request the advice of the court, the district attorney, the county counsel, or the Attorney General. (Pen. Code, §§ 925-926, 934.)

10) Requires a grand jury to submit to the presiding judge of the superior court of the county a final report of its findings and recommendations that pertain to county government matters during the fiscal or calendar year. (Pen. Code, § 933, subd. (a).)

11) Permits, after the presiding judge determines that the final report is complete, the final report to be submitted for comment to responsible officers, agencies, or departments, and permits those officers, agencies, or departments to submit responses to the final report within specified timeframes. (Pen. Code, §§ 933, 933.05.)

12) Requires the clerk of the court to place the grand jury's final report and all compliant responses on file in the office of the clerk, and to immediately forward a true copy of the report or a response to the State Archivist upon receipt; both sets of documents must be retained in perpetuity. (Pen. Code, § 933, subd. (b).)

13) Provides that the public's right to access the records of public entities includes the right to access court records. (E.g., *Sanders v. State Bar of California* (2013) 58 Cal.4th 300, 318.)

FISCAL EFFECT: Unknown.

COMMENTS:

1) **Sponsor**: California Secretary of State

2) **Author's Statement**: According to the author, "SB 1100 is needed to modernize and strengthen California's records management system in support of government efficiency and accountability. The State Archives serve as the official repository for a state government's

permanent records, responsible for collecting, preserving, and providing public access to documents of historical significance. SB 1100 clarifies and updates statutory requirements governing how civil grand jury reports and responses are submitted to the State Archives within the Secretary of State's office.

"Current law requires clerks of court to immediately forward final civil grand jury reports to the State Archivist upon finalization. SB 1100 establishes a consolidated submission process for civil grand jury reports and responses, ensuring clearer compliance, reducing routine administrative inquiries, and allowing the State Archives to manage records more efficiently. This bill also promotes more timely public access, improves coordination among courts, counties, and the State Archives, and ensures that records of civil grand jury oversight are preserved and accessible to future generations. It strengthens government operations by doing more with existing resources—improving performance without expanding bureaucracy."

3) **Civil Grand Juries**: Existing law requires each county in California to draw and impanel a "civil grand jury" at least once a year. (Cal. Const., art. I, § 23; Pen. Code, §§ 888, 905.) These civil grand juries "act as the public's 'watchdog' by investigating and reporting upon the affairs of local government." (*McClatchy Newspapers v. Superior Court* (1988) 44 Cal.3d 1162, 1170; see also Pen. Code, § 925.) As explained by the California Supreme Court:

> "The California grand jury has three basic functions: to weigh criminal charges and determine whether indictments should be returned; to weigh allegations of misconduct against public officials and determine whether to present formal accusations requesting their removal from office; and to act as the public's 'watchdog' by investigating and reporting upon the affairs of local government." (*McClatchy, supra*, 44 Cal.3d at 1171.)

Grand juries have the authority to investigate the conditions of public prisons, inquire into specified land transfers, and to examine the accounts and records of local government agencies. (See Pen., §§ 919, 920, and 925.) After completing an investigation, a grand jury must compile a final report detailing findings and recommendations for county officials. (Pen. Code, § 933, subd. (a).)

Both the final report and the responses to the report are submitted to the presiding judge of the superior court of the county, and placed on file with clerk of the court. In accordance with existing law, a clerk has to "immediately" forward a true copy of the report and the responses to the State Archivist. (Pen. Code, § 933, subd. (b).) According to California Secretary of State, this requirement results in hundreds of piecemeal deliveries of reports and responses because multiple civil grand jury reports and responses are submitted throughout the year. This dynamic apparently creates operational challenges for both the State Archives and the county court clerks.

Existing law requires a county court clerk to **immediately** forward a copy of these reports and responses. Instead, this bill provides that county court clerks must compile all final reports and responses generated during a grand jury's term of service, and subsequently, submit true copies to the State Archives once a year. The bill requires the reports and responses to be transferred within six months of end of grand jury's term of service. While

the State Archives would not receive these documents immediately upon completion, both the responses and reports will remain on file with the clerk of the court, ensuring the public continues to have access.

4) **Argument in Support**: According to the *California Secretary of State Shirley Weber*, "Currently, Penal Code Section 933(b) requires county superior court clerks to forward civil grand jury reports and responses to the State Archivist "immediately" upon receipt. While well-intentioned, this requirement results in hundreds of piecemeal deliveries to the State Archives throughout the year from California's 58 counties, in excess of 400 annually. This creates significant operational challenges for both county clerks and my Archives staff, interrupting ongoing projects, complicating workflow planning and efficient implementation of our electronic records management system.

   "SB 1100 solves this problem by allowing county clerks to compile bundled sets of reports and responses and transfer them annually within six months after a grand jury's term ends. This simple change will significantly reduce the number of transfers per year and enable digital file management. Most critically, this change does not delay public access to reports, as counties will continue to post them immediately upon release. SB 1100 shifts civil grand jury report transfers to a consolidated submission process. This approach improves efficiency and supports the State Archives' transition to electronic records, improving public access to these critical legal documents."

5) **Prior Legislation**:

   a) AB 78 (Ward), of the 2023-24 Legislative Session, would have increased the compensation for individuals selected to serve as grand jurors and required demographic data to be collected during the grand jury selection process. AB 78 was held on the Assembly Appropriations Committee suspense file.

   b) AB 1972 (Ward), of the 2021-22 Legislative Session, would have also increased the compensation for individuals selected to serve as grand jurors. AB 1972 was held on the Senate Appropriations Committee suspense file.

REGISTERED SUPPORT / OPPOSITION:

Support

California Secretary of State (Sponsor)

Opposition

None submitted

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

Date of Hearing: June 23, 2026
Counsel: Ilan Zur

ASSEMBLY COMMITTEE ON PUBLIC SAFETY
Nick Schultz, Chair

SB 1105 (Pérez) – As Amended April 8, 2026

PULLED BY THE AUTHOR

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

Date of Hearing: June 23, 2026
Counsel: Mary Kennedy

ASSEMBLY COMMITTEE ON PUBLIC SAFETY
Nick Schultz, Chair

SB 1130 (Reyes) – As Amended June 16, 2026

SUMMARY: Prohibits a person from operating a wearable recording device within a place of business where a person has a reasonable expectation of privacy without consent of the person being recorded. Specifically, **this bill**:

1) Makes it a misdemeanor, punishable by imprisonment of up to one year and a fine of up to $1,500, for a person to operate a wearable recording device to capture sound or video of any other person in any area within a place of business where the person has a reasonable expectation of privacy unless the person operating the device has the explicit consent of that person to capture sound or video of that person.

2) Provides that the fact that a person takes a photograph or makes an audio or video recording of a public officer or peace officer, while the officer is in a public place or the person taking the photograph or making the recording is in a place the person has the right to be does not constitute in and of itself a violation of these provisions nor does it constitute reasonable suspicion to detain the person or probable cause to arrest the person.

3) Makes it a misdemeanor, punishable by imprisonment of up to one year and a fine of up to $1,500, for a person to disable any light sound or other indicator on a wearable recording device that indicates that the device is capturing sound or video.

4) Defines "place of business" as "any physical office or retail establishment in which members of the public receive goods or services from the business."

5) Defines "wearable recording device" as "any device that can be worn on or attached to the body that has the capacity to make sound or video recordings or transmit data received by the device to another device or to the internet."

6) Provides that a wearable recording device does include a body-worn camera when used by a public officer or peace officer in the course of their official duties.

7) States that it does not apply to the use of hearing aids, augmentative and alternative communication devices, and similar devices by a person afflicted with impaired hearing or any communication disorder when the hearing device is used for the purpose of overcoming impairment or disorder to permit the hearing of sounds ordinarily audible to the human ear or to support communication with the person.

8) Adds the crime created in the bill to the existing criminal statutes prohibiting wiretapping, eavesdropping, and unlawful recording for purposes of enhancement penalties when there are prior convictions for these crimes.

9) Adds the crime created in this bill to the statutes that exempt specified individuals from the wiretapping, eavesdropping, and unlawful recording statutes.

10) Prohibits a person or entity from manufacturing, selling, delivering, holding, or offering for sale in commerce in this state any technology that is designed for the purpose of, marketed for, or likely primarily used for enabling a person to disable any light or other device on a wearable recording device that indicates that the device is capturing sound or video. A violation is punishable by a civil penalty with a fine of $2,500 per violation.

11) Prohibits a person from purchasing, trading for, or otherwise acquiring any technology described above. A violation is punishable by a civil penalty with a fine of $2,500 per violation.

12) Prohibits a person from using any technology to permanently or temporarily disable any light or other device on a wearable recording device that indicates that the device is capturing sound or video if the device would otherwise indicate that it is capturing sound or video. A violation is punishable by a civil penalty with a fine of $2,500 per violation.

13) States, for the purpose of the civil violation, "wearable recording device" has the same meaning as it does in the Penal Code.

EXISTING LAW:

1) Makes it an alternate felony-misdemeanor, also known as a "wobbler," for any person to intentionally tap or make any unauthorized connection into a telephonic communication system (wiretapping) without the consent of all parties. (Pen. Code, § 631, subd. (a).)

2) Makes it a wobbler for a person to, intentionally and without the consent of all parties to a confidential communication, use an electronic amplifying and recording device to eavesdrop upon or record the confidential communications. (Pen. Code, § 632, subd. (a).)

3) Makes it a wobbler for a person to, maliciously and without the consent of all parties to the communication, intercept, receive, or assist in intercepting or receiving a communication transmitted between cell phones or between any cell phone and a landline phone. (Pen. Code, § 632.5, subd. (a).)

4) Makes it a wobbler for a person to, maliciously and without the consent of all parties to the communication, intercept, receive, or assist in intercepting or receiving a communication transmitted between cordless phone, between any cordless phone and a landline phone, or between a cordless phone and a cell phone. (Pen. Code, § 632.6, subd. (a).)

5) Makes it a wobbler for a person who, without the consent of all of the parties to a communication, intercepts or receives and intentionally records, or assists in the interception or reception and intentional recordation of, a communication transmitted between two cell phones, a cell phone and a landline phone, two cordless phones, a cordless phone and a landline phone, or a cordless phone and a cell phone. (Pen. Code, § 632.7, subd. (a).)

6) Includes elevated penalties when a person is convicted under one of the wiretapping, eavesdropping, or unlawful recording statutes and has a prior conviction for violating one of

the specified eavesdropping or unlawful recording statutes. (Pen. Code, §§ 631, 632, 632.5, 632.6, 632.7.)

7) Provides that the wiretapping, eavesdropping, and unlawful recording statutes do not prohibit the Attorney General, any district attorney, or any assistant, deputy, or investigator of the Attorney General or any district attorney, any officer of the California Highway Patrol, any peace officer of the Office of Internal Affairs of the Department of Corrections and Rehabilitation, any chief of police, assistant chief of police, or police officer of a city or city and county, any sheriff, undersheriff, or deputy sheriff regularly employed and paid in that capacity by a county, police officer of the County of Los Angeles, or any person acting pursuant to the direction of one of these law enforcement officers acting within the scope of their authority, from overhearing or recording any communication that they could lawfully overhear or record prior to January 1, 1968. (Pen. Code, § 633, subd. (a).)

8) Provides that the wiretapping, eavesdropping, and unlawful recording statutes do not prohibit any person regularly employed as an airport law enforcement officer acting within the scope of their authority from recording any communication which is received on an incoming phone line and for which the person initiating the call utilized a phone number known to the public to be a means of contacting airport law enforcement officers. (Pen. Code, § 633.1, subd. (a).)

9) Provides that the wiretapping, eavesdropping, and unlawful recording statutes do not prohibit one party to a confidential communication from recording the communication for the purpose of obtaining evidence reasonably believed to relate to the commission by another party to the communication of the crime of extortion, kidnapping, bribery, or any felony involving violence against the person. (Pen. Code, § 633.5.)

10) Creates a wobbler for any person who trespasses on property for the purpose of committing or attempting to commit any act, in violation of the wiretapping, eavesdropping, or unlawful recording statutes. (Pen. Code, § 634.)

11) Makes it a misdemeanor for a person to use a concealed camcorder, motion picture camera, or photographic camera of any type, to secretly videotape, film, photograph, or record by electronic means, another identifiable person who may be in a state of full or partial undress, for the purpose of viewing the body of, or the undergarments worn by, that other person, without the consent or knowledge of that other person, in the interior of a bedroom, bathroom, changing room, fitting room, dressing room, or tanning booth, or the interior of any other area in which that other person has a reasonable expectation of privacy, with the intent to invade the privacy of that other person. (Pen. Code, § 647, subd. (j)(3)(A).)

12) Defines "identifiable" as "capable of identification, or capable of being recognized, meaning that someone, including the victim, could identify or recognize the victim." Specifies that the victim's identity is not required to actually be established. (*Ibid.*)

FISCAL EFFECT: Unknown

COMMENTS:

1) **Sponsor:** Author Sponsored

2) **Author's statement:** "Artificial intelligence and wearable technology are transforming the way we communicate and interact with the world. Devices such as smart glasses and other body-worn recording devices are becoming more common in everyday life. While innovation should be welcomed, it must not come at the expense of Californians' fundamental right to privacy.

"California has long been a national leader in privacy protections. However, many of our existing eavesdropping and recording statutes were written with traditional technologies in mind, telephones, handheld cameras, and tape recorders. Wearable devices present new challenges. They are often designed to look like ordinary eyewear or fashion accessories, making it difficult, if not impossible, for bystanders to know or consent when they are being recorded. In some cases, recording indicator lights can be subtle, disabled, or modified, increasing the risk of covert surveillance.

"SB 1130 modernizes California law to address these emerging concerns. The bill defines wearable recording devices and prohibits recording in areas within places of business where individuals have a reasonable expectation of privacy, unless explicit consent is provided. It also prohibits tampering with or disabling recording indicator lights and restricts the manufacture, sale, purchase, or use of technology intended to conceal recording activity.

"This measure does not prohibit innovation, nor does it prevent lawful recording. Instead, it reinforces core principles of transparency, consent, and accountability. As technology evolves, our laws must evolve with it to ensure that privacy protections remain meaningful.

"SB 1130 provides clear standards for businesses, consumers, and law enforcement, while protecting Californians' dignity and reasonable expectations of privacy."

3) **Existing Laws Related to Wiretapping and Eavesdropping:** Penal Code section 630 declares that "advances in science and technology have led to the development of new devices and techniques for the purpose of eavesdropping upon private communications and that the invasion of privacy resulting from the continual and increasing use of such devices and techniques has created a serious threat to the free exercise of personal liberties and cannot be tolerated in a free and civilized society." However, existing law also "recognizes that law enforcement agencies have a legitimate need to employ modern listening devices and techniques in the investigation of criminal conduct and the apprehension of lawbreakers." (*Ibid.*)

Penal Code sections 631-632.7 set forth a comprehensive statutory scheme protecting the right of privacy by prohibiting unlawful wiretapping and other forms of illegal electronic eavesdropping. Unless a specific exception applies, a person may not intercept, record, or listen to confidential communications whether on a conventional, cordless, or cell phone. Penal Code section 633 outlines a major exemption to the prohibition on unlawful wiretapping and electronic eavesdropping: [The prohibitions on wiretapping and eavesdropping] do not prohibit the Attorney General, any district attorney, or any assistant, deputy, or investigator of the Attorney General or any district attorney, any officer of the California Highway Patrol, any peace officer of the Office of Internal Affairs of the Department of Corrections and Rehabilitation, any chief of police, assistant chief of police, or police officer of a city or city and county, any sheriff, undersheriff, or deputy sheriff regularly employed and paid in that capacity by a county, police officer of the County of Los

Angeles, or any person acting pursuant to the direction of one of these law enforcement officers acting within the scope of their authority, from overhearing or recording any communication that they could lawfully overhear or record prior to January 1, 1968.

Penal Code section 633.1 similarly exempts airport law enforcement officers. Finally, Penal Code section 633.5 provides that the wiretapping and eavesdropping statutes do not prohibit a party to a confidential communication from recording the communication for the purpose of obtaining evidence reasonably believed to relate to the commission by another party to the communication of extortion, kidnapping, bribery, or any felony involving violence against the person.

4) **Emerging Technology and Consumer Products Are Creating New Privacy Concerns:** Smart glasses are eyewear that can correct vision and offer additional features not present in traditional eyewear, including camera functions for photography and video recording, AI capabilities, and integration with other devices.[1] Although smart glasses have existed for years, they began to gain popularity following Meta's release of its Ray-Ban Stories product in 2021.[2]

   The increased popularity of these products and the ability to surreptitiously record others has received a significant amount of attention in recent months.[3]

   One anecdote involved an individual who realized that her esthetician was wearing smart glasses with recording capabilities during a waxing appointment.[4]

5) **Addressing Privacy Concerns:** This bill seeks to address privacy concerns related to surreptitious recordings using devices such as smart glasses and contains two major components. The first component prohibits operating a wearable recording device to capture sound or video of any other person in any area within a place of business where the person has a reasonable expectation of privacy unless the person operating the device has the explicit consent of that person to capture sound or video of that person, and prohibits a person from disabling any light or other device on a wearable recording device that indicates that the device is capturing sound or video. The penalty would be an enhanced misdemeanor punishable by up to one year in jail and a fine not exceeding $1,500. The bill also makes it a misdemeanor to disable any light, sound, or other indicator on a wearable device that indicates the device is capturing sound or video.

---

[1] Hornby, *What are smart glasses? Yesteryear's 'next big thing' is finally finding an audience* (Jul. 10, 2024). <https://www.laptopmag.com/gaming/vr/what-are-smart-glasses>.
[2] Hector, *The Ray-Ban Meta smart glasses are majorly popular, which is exciting and frightening in equal measure* (Oct. 21, 2024) <https://www.techradar.com/computing/virtual-reality-augmented-reality/the-ray-ban-meta-smart-glasses-are-majorly-popular-which-is-exciting-and-frightening-in-equal-measure>.
[3] See Greenwald, *Are You Being Secretly Recorded by Smart Glasses? Here's How to Tell* (Mar. 4, 2026) <https://www.pcmag.com/explainers/are-you-being-secretly-recorded-by-smart-glasses-heres-how-to-tell>; Dellinger, *Dear Meta Smart Glasses Wearers: You're Being Watched, Too* (Mar. 3, 2026) <https://gizmodo.com/dear-meta-smart-glasses-wearers-youre-being-watched-too-2000728928>; Chun, *How to Tell if Someone Is Filming You With Smart Glasses* (Mar. 15, 2026) <https://www.cnet.com/tech/mobile/how-to-identify-smart-glasses/>; Fortney, *Dinner Is Being Recorded, Whether You Know It or Not* (Feb. 16, 2026) <https://www.nytimes.com/2026/02/16/dining/meta-ray-ban-glasses-restaurants.html>.
[4] Prada, *Woman Accuses Tech of Wearing Meta Recording Glasses During Her Brazilian Wax* (Sept. 2, 2025) <https://www.vice.com/en/article/woman-accuses-tech-of-wearing-meta-recording-glasses-during-her-brazilian-wax/>.

The bill specifically provides that recording a public officer or peace officer while the office of the public place or the person is in a place they have the right to be does not in and of itself constitute a violation of these provisions nor does it provide a basis for detaining or arresting an individual.

The bill states that it does not apply to a body worn camera when used by a public officer or a peace officer in the performance of their duties nor does it apply to hearing aids, augmentative and alternative communication devices when used for overcoming hearing impairment.

The second component makes it a civil violation to manufacture, sell, deliver, hold or offer for sale any technology that enables a person to disable any light or other device on a wearable recording device that indicates that the device is capturing sound or video, and prohibits the purchase and acquisition of that technology.

This bill defines "wearable recording device" as "any device that can be worn on or attached to the body that has the capacity to make sound or video recordings or transmit data received by the device to another device or to the internet," and "place of business" as "any physical office or retail establishment in which members of the public receive goods or services from the business."

This bill also adds the new Penal Code section created by this bill to the provisions allowing law enforcement to surreptitiously record under specified circumstances.

The author and supporters believe that this bill protects privacy concerns in places where people have an expectation of privacy while allowing law enforcement and the public to record when appropriate.

6) **Argument in Support:** According to the *California Federation of Labor Unions, AFL-CIO*, "Advances in wearable technology, including AI-enabled smart glasses that incorporate cameras, microphones, and real time data processing capabilities, are quickly becoming more common in everyday life. Because many of these devices resemble ordinary eyewear, individuals may be unknowingly recorded, analyzed, or surveilled without their knowledge or consent, creating serious new privacy concerns.

"Wearers of AI-enabled glasses can surreptitiously record workers, often in restaurants, retail, and hospitality, and expose their identities and interactions publicly without consent. A recent *New York Times* article detailed several examples of "food influencers" recording food service workers and restaurant owners without their knowledge. One video, recorded in Victorville, California without worker or customer permission, got 2 million views online.

"These incidents expose workers to potential harassment, online comments, and unwanted visibility. It also can expose individuals' location and other details of their lives without permission, not just to the person recording, but all viewers online if posted. Immigrant workers, victims of domestic violence, and those who just want privacy are all put at risk by secret recordings, especially when those videos are posted online, exposing individuals to harassment by federal authorities or abusers.

"California's existing privacy laws were developed before the emergence of these technologies and do not adequately address devices that can discreetly capture audio and video in real time. In many cases, current law assumes that recording devices are clearly visible or that individuals will receive meaningful notice that recording is occurring. However, wearable devices challenge these assumptions by embedding recording capabilities into everyday accessories that are difficult for bystanders to detect.

"SB 1130 takes an important step toward closing this gap in the law. The bill defines wearable recording devices and establishes clear rules to ensure transparency and accountability when these technologies are used. Specifically, the measure prohibits recording using these wearable devices in areas within places of business where individuals have a reasonable expectation of privacy without explicit consent. It also prohibits tampering with or disabling recording indicator lights that notify others when recording is taking place.

"These protections are especially important for communities that may already face heightened risks of harassment, stalking, or surveillance. By establishing clear standards for transparency and consent, SB 1130 helps ensure that emerging technologies do not erode Californians' fundamental right to privacy."

7) **Argument in Opposition:** According to *TechNet,* "TechNet is the national, bipartisan network of technology CEOs and senior executives that promotes the growth of American innovation by advocating a targeted policy agenda at the federal and 50-state level. TechNet's diverse membership includes more than 100 dynamic American businesses ranging from startups to the most iconic companies on the planet and represents five million employees and countless customers in the fields of information technology, artificial intelligence, e-commerce, the sharing and gig economies, advanced energy, transportation, cybersecurity, venture capital, and finance.

"We appreciate the author's intent to protect individuals' privacy and prevent non-consensual recording in sensitive environments. However, as drafted, SB 1130 raises significant concerns regarding overbreadth, unclear standards, and the imposition of liability on entities that lack the ability to control user behavior.

"**Overbroad Definition Creates Unintended Liability for Businesses**

"SB 1130 defines a "wearable recording device" broadly to include any device worn on or attached to the body that can capture or transmit audio or video.

"In practice, this definition could encompass a wide range of everyday consumer technologies, including smartphones, tablets, and action cameras. Because existing provisions of the Penal Code define "person" to include business entities, the bill could have the unintended consequence of exposing manufacturers and other businesses to criminal and civil liability for the actions of end users.

"Further, the bill prohibits a "person" from "operating" such a device in certain contexts but does not define the term "operate." Given its broad, ordinary meaning, this could be interpreted to extend liability beyond the individual user to entities involved in the design, manufacture, or distribution of devices.

"Businesses that manufacture or sell these devices have no control over how individual consumers use them in public or private settings. For example, an action camera or tablet manufacturer cannot control whether a purchaser uses a device to capture audio or video in a location where another individual may have a reasonable expectation of privacy.

"Imposing liability under these circumstances would represent a significant departure from established principles that assign responsibility to the individual engaging in the conduct at issue.

"Unclear "Reasonable Expectation of Privacy" Standard and Increased Litigation Risk

"SB 1130 prohibits recording in areas within a place of business where a person has a "reasonable expectation of privacy," but does not clearly define which locations fall within this category.

"Places of business vary widely, and there is no clear, actionable standard for determining where such expectations apply. Without further specificity, individuals and businesses alike may struggle to understand when recording is permitted. This ambiguity creates a risk that the bill could be interpreted as prohibiting the use of commonplace devices across a broad range of everyday settings.

"Furthermore, because the bill establishes new violations tied to broadly defined conduct and ambiguous standards, it may lead to significant enforcement challenges and increased litigation. Even if liability were limited to individual users, the lack of clear boundaries could expose ordinary Californians to potential penalties for routine use of devices in public-facing environments.

"Liability Should Attach to the User, Not the Manufacturer

"The bill would be more appropriately tailored by clarifying that liability applies to the individual actually using the device to record audio or video, the wearer, rather than to a business that simply manufactures or sells the device.

"Absent this clarification, SB 1130 risks sweeping in a broad range of entities far removed from the conduct the bill seeks to regulate and lacking the practical ability to prevent misuse.

"A Targeted Approach Is Available

"California law already includes carefully tailored prohibitions addressing non-consensual recording in sensitive contexts, including specific restrictions related to recording individuals in private settings or while engaged in intimate activity. A more effective and balanced approach would be to build on these existing frameworks by clearly identifying the specific contexts in which recording is prohibited and ensuring that liability attaches to the individual engaging in the prohibited conduct.

"Providing this level of clarity would better align the bill with its stated intent while avoiding unintended consequences for consumers and businesses.

"While we share the goal of protecting individuals' privacy, SB 1130, as drafted, raises significant concerns related to overbreadth, unclear standards, and unintended liability for businesses that cannot control how their products are used."

8) **Prior Legislation**

a) AB 1962 (Berman), Chapter 367, Statutes of 2024, prohibited recordings or transcriptions of smart speaker devices.

b) SB 1272 (Becker), Chapter 27, Statutes of 2022, clarified that the exemption from wiretapping for maintenance and operation purposes, applies to a telephone company as well as a utility.

c) AB 2669 (Jones-Sawyer), Chapter 175, Statutes of 2018, added peace officers of the Office of Internal Affairs of the Department of Correctional and Rehabilitation to the list of law enforcement officers who may eavesdrop or record communications.

d) AB 324 (Kiley), Chapter 246, Statutes of 2018, defined identifiable for the purposes of prohibiting surreptitiously recording an identifiable person under or through their clothing.

e) AB 413 (Eggman), Chapter 191, Statutes of 2017, allowed a party to a confidential communication record the communication for the purpose of obtaining evidence reasonably believed to relate to domestic violence and provides that such evidence is not inadmissible in prosecution against the perpetrator of the domestic violence.

f) AB 1671 (Gomez), Chapter 855, Statutes of 2016, made it a wobbler to intentionally distribute, or aid and abet the distribution of, a confidential communication with a health care provider that was obtained unlawfully.

g) AB 2645 (Connelly), Chapter 298, Statutes of 1992, expanded the surreptitious recording of telephones to apply to cell phones.

h) AB 860 (Unruh), Chapter 1509, Statutes of 1967, made California a two-party consent state prohibiting the recording of confidential communications without express permission of all parties.

REGISTERED SUPPORT / OPPOSITION:

Support

California Civil Liberties Advocacy
California Federation of Labor Unions, Afl-cio
Cft – a Union of Educators & Classified Professionals, Aft, Afl-cio
Consumer Reports
Oakland Privacy

Opposition

Cal Chamber
California Chamber of Commerce
California Restaurant Association
Computer & Communications Industry Association
Computer and Communications Industry Association
Technet

Analysis Prepared by: Mary Kennedy / PUB. S. / (916) 319-3744

Date of Hearing: June 23, 2026
Counsel: Kimberly Horiuchi

ASSEMBLY COMMITTEE ON PUBLIC SAFETY
Nick Schultz, Chair

SB 1173 (Caballero) – As Amended March 23, 2026

SUMMARY: Restores a defendant's right to an instruction on lesser related offenses to the offense charged, if certain conditions are met. Specifically, **this bill**:

1) Authorizes a jury, or a judge if a jury trial is waived, upon request of a defendant, to find the defendant guilty of a lesser offense, the commission of which is closely related to the offense with which the defendant is charged if all of the following conditions are met:

   a) The defendant relies on a theory of defense that is consistent with a conviction for the lesser offense;

   b) The evidence of the lesser offense is relevant to, and admitted for the purpose of, establishing whether the defendant is guilty of the charged offense; and,

   c) A basis exists, other than an unexplainable rejection of prosecution evidence, on which the jury could find the offense to be less than that charged.

2) States the intent of the Legislature to restore the defendant's right to receive jury instructions on lesser related offenses as originally guaranteed by the California Supreme Court in *People v. Geiger* (1994) 35 Cal.3d 510.

EXISTING LAW:

1) Provides that the defendant may be found guilty "of any offense, the commission of which is necessarily included in that with which he is charged." (Pen. Code, § 1159.)

2) Requires that in any criminal case which is being tried before the court with a jury, all requests for instructions on points of law be made to the court and all proposed instructions be delivered to the court before commencement of argument. (Pen. Code, § 1093.5.)

3) Specifies that before the commencement of the argument, the court, on request of counsel, must:

   a) Decide whether to give, refuse, or modify the proposed instructions;

   b) Decide which instructions shall be given in addition to those proposed, if any; and,

   c) Advise counsel of all instructions to be given. (Pen. Code, § 1093.5.)

4) Provides, however, that if during the argument, issues are raised which have not been covered by instructions given or refused, the court may, on request of counsel, give additional instructions on the subject matter thereof. (Pen. Code, § 1093.5.)

FISCAL EFFECT: Unknown.

COMMENTS:

1) **Sponsors**: California Attorneys for Criminal Justice, Californians for Safety & Justice, and California Public Defenders Association

2) **Author's Statement**: "In 1998, the California Supreme Court ruled in People v. Birks, that there is neither a statutory or constitutional right to have a lesser related offense presented to a jury. This decision reversed the longstanding ability of a defense attorney to request that the jury consider a lesser charge, if the facts presented at trial supported the elements of the lesser offense, but it did foreclose the possibility of restoration, but noted there is no statutory authority.

   "Currently, jury deliberations are limited to the charges brought by the prosecution, even when the evidence supports a different, lesser offense. At the height of the war on crime era, the Birks Court reduced judicial discretion to allow for lesser charges to be considered, and narrowed a defendant's ability to ask for lesser related crimes to be heard.

   "SB 1173 restores balance in the criminal courtroom. It allows a judge to include a lesser-related offense in jury instructions if the evidence supports it. This reform strengthens due process, supports fair outcomes, ensures that juries can consider the facts before them, and helps juries connect the evidence with the appropriate offense."

3) **Jury Instructions on Lesser Related Offenses:** The trial court has a "duty to instruct the jury not only on the crime with which the defendant is charged, but also on any lesser penalty crime that is both included in the offense charged and shown by the evidence to have been committed." (*People v. Foster* (2010) 50 Cal.4th 1301, 1343 [citation and quotations omitted].)

> "Under California law, a lesser offense is necessarily included in a greater offense if either the statutory elements of the greater offense, or the facts actually alleged in the accusatory pleading, include all the elements of the lesser offense, such that the greater cannot be committed without also committing the lesser." (*People v. Birks* (1998) 19 Cal.4th 108 (*Birks*).) "If a lesser offense shares some common elements with the greater offense, or if it arises out of the same criminal course of conduct as the greater offense, but it has one or more elements that are not elements of the greater offense as alleged, then it is a lesser related offense, not a necessarily included offense." (*People v. Hicks* (2017) 4 Cal.5th 203, 208-209, citing *Birks, supra*, at pp. 119-120.)

From 1984 to 1998 a defendant was entitled to have the jury instructed on lesser-related offenses, as well as lesser included offenses. (See *People v. Geiger* (1984) 35 Cal.3d 510, overruled in *Birks, supra*, 19 Cal.4th at pp. 116-137.) In *Geiger*, the California Supreme Court held that the trial court is required to instruct on lesser offenses when the defendant requests it, if the offense is closely related to the charged offense and the evidence provides a basis for finding the defendant guilty of the lesser, but innocent of the charged offense. In addition, the Court indicated the rule barring conviction of both a greater and lesser offense holds true as to lesser related offenses. Hence, "The conviction of a [lesser] related offense constitutes an acquittal of the charged offense." (*Id.* at p. 528.)

The *Geiger* Court reasoned that California's due process clause (Cal. Const., art. I, § 15) requires accurate factfinding procedures leading to deprivation of personal liberty. The Court suggested that the removal of plausible lesser offenses from the jury's consideration undermines the reasonable doubt standard by imposing pressure to over-convict in order to avoid a complete acquittal. (*Geiger, supra*, 35 Cal.3d at p. 520.) The Court determined that the considerations of fairness and accuracy which supported California's previously recognized entitlement to instructions on lesser necessarily included offenses applied with equal force to lesser related offenses. (*Id.* at pp. 518-526.)

In 1998, the *Geiger* lesser-related instruction rule was abolished by the California Supreme Court in *Birks*. (*Birks, supra*, 19 Cal.4th at pp. 116-137.) The Court held that a defendant is not entitled to instruction on a lesser related offense as a matter of due process, though the parties are not foreclosed from agreeing to it. (*Birks, supra*, at p. 136, fn. 19.) The Court stated "the *Geiger* rule contravenes the principle of mutual fairness by giving the defendant substantially greater rights either to require, or to prevent, the consideration of lesser nonincluded offenses than are accorded to the People, the party specifically responsible for determining the charges." (*Id.* at p. 126.) While not resolving whether this violates the separation of powers clause, the *Birks* Court discussed that separation of powers issues may arise. (*Birks, supra,* 19 Cal.4th at pp. 135-136.)

The *Geiger* Court had reasoned that the proper balance would be restored, similar to with lesser included offenses, by the prosecution's authority to frame the accusatory pleading from the start. The *Geiger* Court reflected:

> In most cases the prosecution can foresee whether the proof is likely to develop strongly favoring a verdict on a lesser included offense, in which event the indictment should so charge, which is the prosecutor's option. If the evidence is such that a jury can rationally -- and is likely -- to choose the lesser offense, then the interests of justice call for the defense to have the option of the lesser included offense -- whether the prosecution chose to put it in the indictment or has the right later to request it or not. This recognizes 'the jury's central role in our jurisprudence, . . .

(*Geiger, supra*, 35 Cal.3d at p. 521 [citation and quotations omitted]; *Birks, supra*, 19 Cal.4th at p 129.)

Based on these same considerations, the *Geiger* Court opined "it would be fundamentally unfair to deny the defendant the right to have the court or jury consider the 'third option' of

convicting the defendant of the related offense." (*Geiger, supra*, 35 Cal.3d at p. 521.) The *Geiger* Court reflected: "We have repeatedly recognized the defendant's right to have the jury or court determine every material issue presented by the evidence. Denial of instructions on related offenses may affect the reliability of that fact finding process. (*Id.* at p. 526.)

The *Geiger* Court also reasoned that the prosecution would benefit from lesser related instructions: "Just as the lesser included offense doctrine serves the interests of the People by permitting conviction of a lesser offense rather than acquittal of a clearly guilty defendant when the prosecution fails to prove the charged offense, instructions on related offenses will ensure that some guilty defendants who would otherwise go free will be punished for a crime which they committed even though it was overlooked by a prosecutor or was not charged because the prosecutor overestimated the strength of the People's evidence." (*Geiger, supra*, 35 Cal.3d at p. 531.)

4) **Legislative Validity:** While the *Birks* Court disagreed with the *Geiger* Court and concluded a defendant was not constitutionally entitled to instruction on lesser related offenses, it noted the Legislature is free to overturn its readings of statutes. (*Birks, supra,* 19 Cal.4th at p. 117.) The *Geiger Court* opined that the option to convict of a lesser related offense was consistent with the legislative intent in providing for conviction of included offenses (Pen. Code, § 1159). The *Birks* Court, on the other hand, concluded Penal Code section 1159 explicitly provides that the defendant may be found guilty of any offense "necessarily included" within the offense charged. (*Birk's, supra,* 19 Cal.4th at p. 118.) However, this bill specifically alters Penal Code section 1159 to allow a defendant to seek a lesser related jury instruction.

   Ultimately, with the benefit of nearly three decades of hindsight, it appears the *Birks* Court over-emphasized the need for district attorneys to have sole authority in determining what charges are put to a jury. This posture lead to significant over-charging and mass incarceration. Existing law today allows courts to intervene in any number of instances to provide a more equitable outcome, including granting diversion, reducing offenses from felonies to misdemeanors, striking prior convictions and enhancements, and reducing criminal sentences where the law allows for it.

   Opponents to this bill contend that use of a lesser related charge is disapproved by the U.S. Supreme Court in *Schmuck v. United States* (1988) 489 U.S. 705. However, *Schmuck* stands for the proposition that, in accordance with Federal Rule of Criminal Procedure 31, subdivision (c), the defendant is not entitled to anything other than lesser included charges that appear within the charged statute. (*Id.* at 719.)

   While *Birks* concluded a defendant **does not have an absolute right** to a jury instruction on a lesser related offense for purposes of due process, nothing prevents the Legislature from granting that right to a defendant. This bill would create a statutory basis for a court to issue a less-related charge where appropriate. Per the *Geiger* opinion, and as required under this bill, three conditions would have to be met to trigger the trial court's duty to instruct on a closely related lesser offense upon the defendant's request:

   a) The defendant relies on a theory of defense that is consistent with a conviction for the lesser offense;

b) The evidence of the lesser offense is relevant to and admitted for the purpose of establishing whether the defendant is guilty of the charged offense; and,

c) A basis exists, other than an unexplainable rejection of prosecution evidence, on which the jury could find the offense to be less than that charged (*Geiger, supra,* 35 Cal. 3d at p. 531.)

The *Geiger* Court acknowledged there may be circumstances in which courts grapple with a request for instruction on a lesser related offense under this standard. (*Geiger, supra,* 35 Cal.3d 510, 532, fn. 12; *Birks, supra*, 19 Cal.4th at p. 131.) To that end, the *Geiger* Court instructed: "In doubtful situations, however, the determinative factor should be whether the option to convict a defendant of a related offense is reasonably necessary to insure that the jury is afforded the opportunity to decide all material issues presented by the evidence in accord with the defendant's theory of the case, where denial of that opportunity might undermine the reasonable doubt standard." (*Geiger, supra,* 35 Cal.3d 510, 532, fn. 12.)

5) **Argument in Support:** According to the *ACLU California Action*, "Under current law, juries are not permitted to consider lesser related offenses at trial, but only the charges brought forth by the prosecution, even when presented evidence does not accurately reflect the charges. For example, if a jury believes the evidence proves the accused has committed a criminal offense, but the prosecutor has only presented the highest level offense, with a longer potential prison sentence than what the evidence supports, the jury must decide whether to convict someone of a crime they did not actually commit, or find the accused not guilty, even though the jury believes that an alternative offense was committed. This procedure comes from a 1998 appellate court case that overturned a previous rule allowing defendants to request jury instructions on a lesser related offense.1 This ruling has left defendants without the ability to argue that an alternative charge would be more accurate, violating the principle that the evidence should dictate the offense. Prior to 1998, juries were allowed to consider lesser related offenses. SB 1173 restores this legal option.

"This limitation undermines due process and fairness. When juries are not allowed to consider all charges supported by the evidence, there is an increased risk of conviction for offenses that may not accurately align with the facts of the case. For example, someone may be arrested for attempted breaking and entering a business after hours. However, the evidence may show that the individual was recently terminated from the business, and they were vandalizing the exterior of the building out of frustration without the intent to commit burglary. If a prosecutor only presents the breaking and entering (burglary) charge and not the vandalism, a jury may never get the option to even consider the lesser related offense despite the facts supporting such an alternative. SB 1173 addresses this by giving authority to a judge to decide if evidence supports the inclusion of a lesser related offense, ensuring that the charges presented match the facts of the case.

"This legislation offers a balanced approach to criminal trial court, by allowing judges the discretion to include the jury instruction or not only when appropriate. This establishes important safeguards while continuing to allow for judicial authority. SB 1173 promotes critical protections needed to strengthen confidence in California's criminal justice system. Ensuring that juries are fully informed of every charge that is factually supported upholds a more balanced and just process for every individual involved."

6) **Argument in Opposition**: According to the *California District Attorneys Association*,"This bill would go backwards in our approach to criminal law. It also would run afoul of the California Supreme Court's clear language noting a serious constitutional concern. This same bill, introduced four years ago (AB 2435 (Lee), 2021-2022 Sess.), failed to pass the Assembly for the same reasons it is bad policy today. The bill proposes an outdated, unconstitutional, and unworkable rule requiring courts to instruct juries on lesser related offenses. In 1998, the California Supreme Court specifically ruled that courts shall not instruct on lesser related offenses, holding that prior opinions authorizing such a practice were simply "wrong." (*People v. Birks* (1998) 19 Cal.4th 108, 136.) This has been the law of the land in California for nearly 30 years. SB 1173 states that the intent of the bill is to restore this "wrong" practice as authorized in *People v. Geiger* (1984) 35 Cal.3d 510, a criticized Justice Rose Bird era opinion. The best argument against this bill can be found in the Supreme Court's own language in the *Birks* opinion:

> *Geiger*'s rationale has since been expressly repudiated for federal purposes by the United States Supreme Court, and it continues to find little support in other jurisdictions. The *Geiger* rule can be unfair to the prosecution, and actually promotes inaccurate factfinding, because it gives the defendant a superior trial right to seek and obtain conviction for a lesser uncharged offense whose elements the prosecution has neither pled nor sought to prove. Moreover, serious questions arise whether the holding of *Geiger*, ostensibly based on the due process clause of the California Constitution, can be reconciled with other provisions of the same charter. By according the defendant the power to insist, over the prosecution's objection, that an uncharged, nonincluded offense be placed before the jury, the *Geiger* rule may usurp the prosecution's exclusive charging discretion, and may therefore violate the Constitution's separation of powers clause.

"(*People v. Birks, supra,* 19 Cal.4th at 112-113.)

"CDAA echoes the Supreme Court's concerns that such instructions "promotes inaccurate factfinding." Additionally, SB 1173 in its application would lead to disparate outcomes depending on factors irrelevant to the case such judicial draw and local county practice. The current state of the law is predictable and is applied uniformly across the state."

7) **Prior Legislation**: AB 2435 (Lee), of the 2021-22 Legislative Session, was identical to this bill and failed passage on the Assembly Floor.

REGISTERED SUPPORT / OPPOSITION:

Support

California Attorneys for Criminal Justice (Co-Sponsor)
California Public Defenders Association (Co-Sponsor)
Californians for Safety and Justice (Co-Sponsor)
ACLU California Action
Communities United for Restorative Youth Justice
Courage California
Drug Policy Alliance
Drug Policy Alliance 1

Ella Baker Center for Human Rights
Felony Murder Elimination Project
Friends Committee on Legislation of California
Justice2jobs Coalition
LA Defensa
Local 148 Los Angeles County Public Defender's Union
San Francisco Public Defender
San Quentin Skunkworks
Silicon Valley De-bug
Smart Justice California, a Project of Beyond Impact
The W. Haywood Burns Institute

Opposition

California District Attorneys Association
Los Angeles County District Attorney's Office
San Diego County District Attorney's Office

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

Vice-Chair
Alanis, Juan

Members
González, Mark
Haney, Matt
Harabedian, John
Lackey, Tom
Nguyen, Stephanie
Ramos, James C.
Sharp-Collins, LaShae

California State Assembly

PUBLIC SAFETY

NICK SCHULTZ
CHAIR

Chief Counsel
Andrew Ironside

Deputy Chief Counsel
Stella Choe

Staff Counsel
Kimberly Horiuchi
Dustin Weber
Mary Kennedy
Ilan Zur

Lead Committee Secretary
Samarpreet Kaur

Committee Secretary
Jason Rich

1020 N Ste, Room 111
(916) 319-3744
FAX: (916) 319-3745

Tuesday, June 23, 2026
9 a.m. -- State Capitol, Room 126

Analysis Packet Part II
(SB 1198 Menjivar – SB 1401 Stern)

Date of Hearing: June 23, 2026
Counsel: Ilan Zur

ASSEMBLY COMMITTEE ON PUBLIC SAFETY
Nick Schultz, Chair

SB 1198 (Menjivar) – As Amended May 14, 2026

As Proposed to be Amended in Committee

SUMMARY: Increases the length of court-imposed license suspensions for reckless driving convictions and modifies the procedures that apply to a vehicle impounded for reckless driving following a peace officer arrest, as specified. Specifically, **this bill**:

1) Increases the length of license suspensions that a court may impose upon a person convicted of reckless driving, commencing January 1, 2028, except where a Department of Motor Vehicles (DMV) license revocation is mandatory, as follows:

   a) Upon a first conviction, from a period of up to 30 days to a period of up to 60 days.

   b) Upon a second conviction, from a period of up to 60 days to a period of 30 days to six months.

   c) Upon a third or subsequent conviction, from a period of up to six months to a period of 90 days to one year, and requires, rather than permits, a court to impose a license suspension for a third or subsequent conviction, unless a DMV license revocation is mandatory.

2) Strikes the crime of reckless driving from the list of crimes, a violation of which authorizes a peace officer to immediately arrest and take that person into custody, and remove and seize the vehicle used in the offense, to be impounded for up to 30 days.

3) Establishes a standalone impoundment statute specific to reckless driving that provides that when a peace officer determines a person was engaged in reckless driving, the officer may immediately arrest and take into custody that person and cause the removal and seizure of the vehicle used in that offense, to be impounded for not more than 30 days.

4) Modifies the procedures governing a vehicle impounded for reckless driving pursuant to the above authority, as follows:

   a) Requires an impounding agency to release a vehicle to the registered owner before the conclusion of the impoundment period if the person alleged to have been engaged in reckless driving was not authorized by the registered owner to operate the vehicle at the time of the offense, and requires the owner to provide evidence that the person did not have authorization to operate the vehicle, including, but not limited to, theft reports, documented history of unauthorized use, or communication denying use of the vehicle.

b) Requires the following, for the purpose of the existing requirement that an impounding agency release a vehicle to the registered owner before the conclusion of the impoundment period if the registered owner of the vehicle was neither the driver nor passenger of the vehicle at the time of the alleged reckless driving violation or was unaware that the driver was using a vehicle to engage in reckless driving:

   i) The owner shall submit a written, signed statement attesting that the registered owner was unaware that the driver was using the vehicle to engage in reckless driving.

   ii) States that this relief shall only be available to a registered owner of a vehicle three times, and prohibits a registered owner from using this relief for a fourth or any subsequent arrest for reckless driving that involves the same driver and vehicle.

c) Requires, similar to the impoundment procedure for a speed contest, that if an impounding agency releases a vehicle to the registered owner before the conclusion of the applicable impoundment period because a citation or notice is dismissed, criminal charges are not filed because of insufficient evidence, or the charges are otherwise dismissed prior to the conclusion of the impoundment period, neither the person charged with reckless driving nor the registered owner of the vehicle is responsible for towing and storage charges nor shall the vehicle be sold to satisfy those charges.

EXISTING LAW:

1) Establishes criminal penalties for reckless driving, as follows:

   a) Defines reckless driving as driving on a highway or off-street parking facility in willful or wanton disregard for the safety of persons or property, punishable as a misdemeanor, by five to 90 days in jail or a fine of $145 to $1,000, or by both. (Veh. Code, § 23103.)

   b) Makes reckless driving proximately causing bodily injury to another a misdemeanor, punishable by 30 days to six months in county jail or a fine of $220 to $1,000, or by both. (Veh. Code, § 23104, subd. (a).)

   c) Makes reckless driving that proximately causes great bodily injury, where the defendant has previously been convicted of reckless driving or DUI, among other crimes, an alternate felony-misdemeanor (wobbler), punishable by imprisonment for 16 months, or two or three years, or by 30 days to six months in county jail or a fine of $220 to $1,000, or by both. (Veh. Code, § 23104, subd. (b).)

   d) Makes reckless driving that proximately causes specified injuries a wobbler, punishable by imprisonment for 16 months, or two or three years, or by 30 days to six months in county jail, a fine of $220 to $1,000, or by both. (Veh. Code, § 23105.)

2) Authorizes discretionary court-imposed license suspensions for reckless driving:

   a) Provides that when a driver is convicted of a violation of the Vehicle Code relating to the speed of vehicles or reckless driving, the court may, unless the Vehicle Code mandates a license revocation by the DMV, impose a license suspension not to exceed 30 days upon

a first conviction, not to exceed 60 days upon a second conviction, and not to exceed six months upon a third or subsequent conviction. (Veh. Code, § 13200.)

b) Authorizes a court to impose up to a six-month license suspension for a person convicted of reckless driving causing bodily injury. (Veh. Code, § 13201, subd. (b).)

3) Establishes DMV-imposed license suspensions for reckless driving:

a) Authorizes the DMV to impose a license suspension for up to six months, as specified, at the discretion of the DMV, upon a person's second or subsequent conviction of reckless driving, among other offenses. (Veh. Code, §§ 13361, subd. (b); 13556, subd. (a).)

b) Requires the DMV to impose a one-year license revocation upon a person's conviction for reckless driving causing bodily injury or a felony involving a motor vehicle, as specified. (Veh. Code, § 13350, subds. (a)(2)-(3) & (c).)

c) Requires the DMV to impose a three-year license revocation upon a person's conviction for three or more violations for reckless driving, reckless driving causing bodily injury, reckless driving causing specified injuries, or a hit and run, within a period of 12 months from the first offense to the third or subsequent offense, or a combination of three or more convictions within the same period. (Veh. Code, § 13351, subds. (a)(2) & (b).)

4) Authorizes vehicle impoundment for reckless driving, as follows:

a) Requires a magistrate presented with a peace officer affidavit establishing reasonable cause that a vehicle was an instrumentality used in the officer's presence in violation of specified crimes, including reckless driving, a speed contest, or an exhibition of speed, to issue a warrant authorizing an officer to immediately seize and remove the vehicle, to be impounded for up to 30 days. (Veh. Code, § 14602.7, subd. (a)(1).)

b) Authorizes a peace officer who determines that a person engaged in reckless driving, a speed contest, or an exhibition of speed to immediately arrest and take into custody that person, cause the removal and seizure of the vehicle used in the offense, to be impounded for up to 30 days, subject to the following:

i) Requires that when such an impoundment occurs, the registered and legal owner of the vehicle or their agents be provided the opportunity for a storage hearing to determine the validity of the storage. (Veh. Code, § 23109.2, subds. (a) & (b).)

ii) Sets forth the circumstances under which an impounding agency must release a vehicle to the registered owner prior to the conclusion of the impoundment period, as well as the conditions that must be met for a vehicle to be released to the legal owner on or before the 30th day of impoundment. (Veh. Code, § 23109.2, subds. (c) & (d).)

FISCAL EFFECT: Unknown.

COMMENTS:

1) **Sponsor**: Burbank Armenian Association

2) **Author's Statement**: According to the author, "For too long, reckless drivers have plagued California roads, claiming the lives of our beloved community members. Last year alone, nearly half of all collisions resulting in serious injury or death involved reckless driving. We must stand with the families whose lives have been forever changed by this inexcusable behavior. Standing with them means ensuring that reckless behavior behind the wheel is met with consequences serious enough to match the harm it causes. By increasing penalties for those who repeatedly engage in reckless driving, SB 1198 sends a clear message about the seriousness and the consequences of endangering oneself, pedestrians, bicyclists, and all other road users."

3) **Reckless Driving:** Reckless driving is driving on a highway or off-street parking facility in willful or wanton disregard for the safety of persons or property. (Veh. Code, § 23103.) A person acts with wanton disregard for safety if the person is aware that their actions present a substantial and unjustified risk of harm and they intentionally ignore that risk. (CALCRIM No. 2200 (2026).) There is no requirement that the person intend to cause damage. (*Ibid.*)

   Reckless driving is generally a misdemeanor, punishable by five to 90 days in county jail, a fine of $145 to $1,000, or by both. (Veh. Code, § 23103.) Heightened penalties apply to certain types of conduct, to repeat offenders, and to offenses involving injury. Reckless driving proximately causing bodily injury is a misdemeanor but is subject to elevated penalties of 30 days to six months in jail or a fine of $220 to $1,000. (Veh. Code, § 23104, subd. (a).) If the person engaged in reckless driving with intent to capture a visual image or sound recording for a commercial purpose, the offense is punishable by up to six months in county jail. (Veh. Code, § 40008, subd. (a).) If the reckless driving offense causes certain injuries, such as a concussion, loss of consciousness, or a bone fracture, it is punishable as a wobbler. (Veh. Code, § 23105.) Reckless driving that causes great bodily injury to another, if the person has previously been convicted of reckless driving or DUI, among other offenses, is also a wobbler. (Veh. Code, § 23104, subd. (b).)

4) **Effect of this Bill:** This bill contains two primary provisions; one relating to court-imposed license suspensions for reckless driving and the other relating to impoundments for reckless driving following a peace officer arrest.

   a) Court-Imposed License Suspensions for Reckless Driving

   Existing law authorizes both the courts and the DMV to impose a license suspension following a reckless driving conviction. Court-imposed suspensions for reckless driving are discretionary. The Vehicle Code prohibits a court from imposing a discretionary license suspension for reckless driving if the offense requires the DMV to impose a mandatory license revocation. (Veh. Code, § 13200.) The purpose of this provision is likely to avoid imposing duplicative license sanctions by both the courts and the DMV. For example, if a person was convicted of their third reckless driving conviction within 12 months, existing law prohibits a court from suspending that person's license because the DMV is already required to impose a three-year license revocation. (Veh. Code, § 13351, subds. (a)(2) & (c).)

For a first-time conviction for reckless driving, the court may impose up to a one-month suspension. (Veh. Code, § 13200.) If the first-time conviction causes bodily injury, the court may impose up to a six-month suspension. (Veh. Code, § 13201, subd. (b).) More impactfully, a conviction for reckless driving causing bodily injury requires the DMV to impose a mandatory one-year license revocation. (Veh. Code, § 13350, subds. (a)(2) & (c).) If a person is convicted of their second reckless driving offense, the court may impose up to a two-month suspension, and for a third or subsequent conviction, the court may impose up to a six-month suspension. (Veh. Code, § 13200.) For a second or subsequent conviction, the DMV may also impose a suspension of up to six months (Veh. Code, §§ 13361, subd. (b); 13556, subd. (a).) Further, if a person accumulates three or more reckless driving or hit and run convictions within 12 months, the DMV is required to issue a three-year license revocation. (Veh. Code, § 13351, subds. (a)(2) & (c).) In addition to the above, a conviction for reckless driving adds two points to a person's driving record, which can lead to an administrative DMV-imposed suspension. (Veh. Code, § 12810, subd. (c).)

This bill makes several changes related to court-imposed license suspensions, to take effect on January 1, 2028. First, it lengthens the maximum duration of court-imposed license suspensions for reckless driving. For a first-time reckless driving conviction, it increases the maximum possible license suspension from 30 days to 60 days; for a second conviction, from a period of up to 60 days to a period of 30 days to six months; and for a third or subsequent conviction, from a period of up to six months to a period of 90 days to one year. Second, it makes a court-imposed suspension for a third or subsequent conviction mandatory rather than discretionary. Consistent with existing law, under this bill, a court may not impose a license suspension for a reckless driving conviction if the Vehicle Code also requires a mandatory revocation by the DMV.

b) *Impoundment of Vehicles for Reckless Driving*

Existing law provides for multiple avenues to impound vehicles involved in crimes such as reckless driving, a speed contest, or an exhibition of speed. First, a magistrate presented with a peace officer affidavit establishing reasonable cause that a vehicle was used in the officer's presence in violation of any of these offenses may issue a warrant authorizing an officer to seize and remove the vehicle, to be impounded for up to 30 days. (Veh. Code, § 14602.7, subd. (a)(1).) Second, and most relevant to this bill, impoundment may be triggered by a peace officer arresting and taking a person into custody. Specifically, a peace officer who determines whether a person engaged in reckless driving, a speed contest, or an exhibition of speed may immediately arrest and take into custody that person, and cause the removal and seizure of the vehicle used in the offense. (Veh. Code, § 23109.2, subd. (a)(1).) Like the impoundment of vehicles through a warrant, the seized vehicle cannot be impounded for more than 30 days. (*Ibid.*) Upon impoundment following a peace officer's arrest, the registered and legal owner of the vehicle or their agents must be provided the opportunity for a storage hearing to determine the validity of the storage. (Veh. Code, § 23109.2, subd. (b).) A notice of the storage must be mailed or personally delivered to the owners within 48 hours, and must include specified information. (Veh. Code, § 22852, subd. (b).) The registered owner or their agent is generally responsible for all towing and storage charges related to impoundment, and any administrative charges. (Veh. Code, § 23109.2, subd. (e)(1)).)

Impounding agencies are required to release a vehicle to the registered owner before the conclusion of the impoundment period in the following circumstances: 1) if the vehicle was

stolen; 2) if the person alleged to have engaged in a speed contest was not authorized to operate the vehicle; 3) the registered owner was not the driver or passenger during the offense or was unaware the driver was using the vehicle; 4) the legal or registered owner is a rental car agency; and 5) if before the end of the impoundment period, a citation or notice is dismissed, criminal charges are not filed because of lack of evidence, or the charges are otherwise dismissed. (Veh. Code, § 23109.2, subd. (c)(1).) Additionally, an impounded vehicle must be released to the legal owner of the vehicle by the 30th day of impoundment, if the legal owner is a dealer, bank, credit union, financial institution, or another person holding a security interest in the vehicle, that entity or person pays all towing and storage fees related to impoundment, and the legal owner presents foreclosure documents or an affidavit of repossession for the vehicle. (Veh. Code, § 23109.2, subd. (d).)

Currently, both statutory avenues to impound a vehicle for reckless driving, whether by a magistrate-issued warrant or incident to a peace officer arrest, also apply to the crimes of a speed contest and exhibition of speed. This bill removes reckless driving from the list of offenses covered by the existing statute authorizing impoundment of a vehicle incident to a peace officer arrest and establishes a standalone impoundment statute specific to reckless driving following a peace officer arrest. The proposed standalone statute is distinct from the existing statute authorizing impoundment of vehicles incident to an arrest in several ways.

First, it requires the release of a vehicle to the registered owner before the conclusion of the impoundment period if the person alleged to have been engaged in reckless driving was not authorized by the owner to operate the vehicle at the time of the offense. Currently, this relief is only available to a person alleged to have engaged in a speed contest. (Veh. Code, § 23109.2, subd. (c)(1)(B).) Second, the bill creates a new evidentiary requirement that, for an owner to avail themself of this relief for unauthorized use, the owner must provide evidence that the person did not have authorization from the registered owner to operate the vehicle. Evidence may include theft reports, documented history of unauthorized use, or communication denying use of the vehicle. This may make it more difficult for certain owners to recover their impounded vehicles. For example, if a teenage driver were to take a car without their parents' authorization, and the unauthorized use is only discovered after the fact, it is somewhat unclear what type of evidence that parent could produce to prove that their teenager was not authorized to operate the vehicle at the time of the offense.

Third, it imposes new restrictions on the existing requirement that an agency release a vehicle to the registered owner before the conclusion of the impoundment period if the owner was neither the driver nor passenger of the vehicle at the time of the violation or was unaware that the driver was using a vehicle to engage in reckless driving. This bill adds two new requirements to secure this relief; restrictions that would only apply to vehicles impounded due to reckless driving. The bill requires owners, in order to recover their vehicles under this provision, to submit a written, signed statement attesting that the registered owner was unaware that the driver was using the vehicle to engage in reckless driving. Additionally, it states that this relief shall only be available to a registered owner three times. The bill prohibits a registered owner from using this relief for a fourth or any subsequent arrest for reckless driving that involves the same driver and vehicle. For example, consider a scenario where a teenage driver repeatedly used their parent's vehicle to engage in reckless driving without their parent's awareness. Under this bill, the parent may be able to recover the vehicle before the end of the 30-day impoundment period on the first three occasions because they were unaware their child had taken the vehicle. However, upon the

fourth instance of reckless driving, which results in impoundment, this bill would prohibit this relief from being available to that parent, and the vehicle may be subject to the entirety of the 30-day impoundment.

Fourth, it provides that if a vehicle is released to the owner before the end of the impoundment period because a citation is dismissed, charges are not filed, or the charges are otherwise dismissed, neither the person charged with reckless driving nor the owner is responsible for towing and storage charges, nor shall the vehicle be sold to satisfy those charges. Currently, this provision only applies to a person charged with engaging in a speed contest. (Veh. Code, § 23109.2, subd. (c)(3).)

5) **Distinct Impoundment Procedures:** Currently, the criminal penalties for reckless driving are very similar to those for a speed contest and an exhibition of speed. Singling out reckless driving for lengthier impoundment periods and distinct impoundment procedures may contribute to inconsistent impoundment procedures for comparably similar offenses.

The crimes of a speed contest, an exhibition of speed, and reckless driving are subject to very similar criminal penalties. Each of these offenses is a low-level misdemeanor punishable by up to 90 days in county jail. (Veh. Code, §§ 23103; 23109, subds. (e)(1) & (i)(1).) The penalties for reckless driving and speed contests that result in injury, or where the person is a repeat offender, are also largely the same. For example, a speed contest or reckless driving that causes bodily injury is still a misdemeanor, but is punishable with higher fines and jail time of 30 days to six months in county jail and up to a $1,000 fine. (Veh. Code, §§ 23109, subd. (f)(1); 23104, subd. (a).) If the speed contest or reckless driving proximately causes specified injuries to another person, including loss of consciousness, a concussion, or a bone fracture, the offense becomes a wobbler. (Veh. Code, §§ 23109.1; 23105.) In part due to these similarities, current law includes each of these offenses within the same statutes authorizing impoundments of vehicles following a magistrate-issued warrant and authorizing impoundments incident to a peace officer arrest. (Veh. Code, §§ 23109.2; 14602.7, subd. (a).) The primary outlier in the generally similar punishments for these offenses is license suspensions: a conviction for a speed contest results in a lengthier suspension of 90 days to six months. (Veh. Code, § 23109, subd. (e)(1).)

This bill subjects vehicles impounded for reckless driving incident to an arrest to different impoundment procedures than comparably similar offenses. For example, it establishes new impoundment provisions – a requirement that owners provide evidence of unauthorized use to secure impoundment relief, and a restriction on how many times an owner can secure impoundment relief if they were unaware their vehicle was being used, among others – that only apply to vehicles impounded for reckless driving. Given that reckless driving, speed contests, and exhibitions of speed are comparable crimes that are punished similarly, this may contribute to inconsistency and undue complexity in the impoundment procedures for these offenses.

6) **Prior Governor Vetoes:** In the last ten years, three bills relating to vehicle impoundments for reckless driving have been vetoed by multiple governors. The crux of the vetoes, as described in the signing messages, has been judicial discretion, and the fact that judges already have discretion to impound vehicles for reckless driving for up to 30 days. SB 510 (Hall), of the 2015-2016 Legislative Session, would have required, rather than permitted, the

30-day impoundment of a vehicle for a person convicted of reckless driving. Governor Brown vetoed that bill, stating the following:

> This bill requires courts to impose a mandatory 30-day vehicle impoundment for any case of reckless driving or engaging in an illegal speed contest.
>
> Current law already allows judges - who see and evaluate first-hand the facts of each case - to impound cars for up to 30 days when circumstances warrant. Accordingly, there would be no reason for this law except to supplant sound judicial discretion with robotic and abstract justice - something I don't support.[1]

In 2017, the Legislature passed AB 1393 (Friedman), which similarly mandated that if a person is convicted of reckless driving, and it is their second or subsequent offense, the vehicle used in the offense must be impounded for 30 days. Governor Brown vetoed the bill and issued a substantially similar veto message.[2] Most recently, the Legislature passed AB 1407 (Friedman) of the 2019-2020 Legislative Session, which was substantially similar to AB 1393. Governor Newsom vetoed this bill, stating the following:

> Under current law, a conviction for reckless driving is punishable by a total fine of between $684 and $4,175 and possible jail time of between 5 and 90 days. A conviction for engaging in a first offense speed contest is punishable by a total fine of between $1,551 and $4,175, jail time between 1 and 90 days, 40 hours of community service and potential driver's license suspension between 90 days and 6 months. Subsequent convictions have even stronger penalties.
>
> Courts currently have the authority to impound vehicles based on the totality of facts and circumstances of each case. This bill reduces the courts' discretion in deciding to impound a vehicle, as well as the length of time the vehicle is impounded.[3]

SB 1198 is largely distinguishable from these bills in that it does not mandate impoundment of vehicles for reckless driving. However, concerns regarding the sufficiency of existing impoundment options for reckless driving that are available to judges and peace officers may remain. Further, certain provisions of this bill reduce or eliminate judicial discretion over the penalties for reckless driving offenses. The bill requires, rather than permits, a court to suspend the license of a person convicted of their third or subsequent reckless driving offense. It also establishes mandatory minimum suspension lengths for when courts do opt to issue license suspensions. Currently, the primary limit on a court-imposed license suspension

---

[1] Governor's veto message to Sen. on Sen. Bill No. 510 (Oct. 3. 2015) <https://archive.gov.ca.gov/archive/gov39/wp-content/uploads/2017/09/SB_510_Veto_Message.pdf> [as of June 8, 2026].
[2] Governor's veto message to Assem. on Assem. Bill No. 1393 (Oct. 4. 2017) <https://archive.gov.ca.gov/archive/gov39/wp-content/uploads/2017/11/AB_1393_Veto_Message_2017.pdf> [as of June 8, 2026].
[3] Governor's veto message to Assem. on Assem. Bill No. 1407 (Oct. 11, 2019) <https://www.gov.ca.gov/wp-content/uploads/2019/10/AB-1407-Veto-Message.pdf> [as of June 8, 2026].

for reckless driving is that it cannot exceed a maximum amount of time. (Veh. Code, § 13200.) This bill requires, if a court opts to impose a license suspension for a person's second reckless driving conviction, that the suspension must be at least 30 days. Upon a third or subsequent reckless driving conviction, it requires the court to impose a license suspension of at least 90 days. To preserve judicial discretion, the author may wish to consider restoring discretion over whether to suspend a license for a third reckless driving conviction and removing the provisions of the bill establishing minimum license suspension periods.

7) **Impact of License Suspensions on Jobs and Wages**. Extending the license suspensions for individuals convicted of reckless driving may negatively impact individuals who rely on their vehicles to drive to work, take their children to school, and attend medical appointments, among other life necessities. A license suspension "can make it harder to find and keep a job, can increase one's exposure to the criminal legal system, and can generally place a great strain on one's life and the life of one's family."[4] Research has found that "having a valid driver's license and possession of a car is a stronger predictor of finding employment and leaving public assistance than a high school diploma."[5] Almost 30% of jobs require some amount of driving, and 75% of workers commute to work in a car.[6]

According to a study on the impacts of license suspension in New Jersey conducted by Rutgers, the New Jersey Department of Transportation, and the Federal Highway Administration, 42% of individuals with a history of license suspension lost their jobs when they had their driving privileges suspended.[7] Job loss was most significant among low-income and younger drivers.[8] 45% of those who lost their job because of the suspension could not find another job, a trend that was most pronounced among low-income and older drivers.[9] Further, of those who were able to find another job, 88% reported a decrease in income.[10] This was most true for low-income drivers. Finally, more than half of those with a history of license suspension reported that they could not afford the increased cost of auto insurance as a result of the suspension.[11]

Research suggests that an estimated 75% of suspended drivers continue to drive.[12] Individuals who have their licenses suspended may simply "choose to keep driving because they have to work, which puts them at serious legal risk if they are caught driving with suspended licenses."[13] In California, individuals who drive on a suspended or revoked license can be subject to additional criminal penalties and fines. Existing law makes it a crime for a

---

[4] U.S. Dept. of Health & Human Services, Challenges to Employment: Fines, Fees, and License Suspensions (Dec. 2022), <https://acf.gov/opre/report/challenges-employment-fines-fees-license-suspensions> [as of June 19, 2026].
[5] Leiva et al., *Challenges to Employment: Fines, Fees, and License Suspensions*, Building Evidence of Employment Strategies (Nov. 2022), at p. 4 <https://acf.gov/sites/default/files/documents/opre/bees_orlando_brief.pdf> [as of June 19, 2026].
[6] *Id.* at p. 1.
[7] Driver's License Suspensions, Impacts and Fairness Study, New Jersey Department of Transportation (Aug. 2007), at p. 56, <https://vtc.rutgers.edu/wp-content/uploads/2014/04/MVC-DL-Suspension-Study-Final-Report-Vol1_9-13-07_.pdf> [as of June 19, 2026].
[8] *Ibid.*
[9] *Ibid.*
[10] *Ibid.*
[11] *Ibid.*
[12] American Association of Motor Vehicle Administrators, Reducing Suspended Drivers and Alternative Reinstatement Best Practices: Edition 3 (May 2021), at p. 3 <https://www.aamva.org/getmedia/b92cc79d-560f-4def-879c-6d6e430e4f4d/Reducing-Suspended-Drivers-and-Alternative-Reinstatement-Best-Practices-Edition-3.pdf> [as of June 19, 2026].
[13] Leiva, *supra*, at p. 1.

person to drive a vehicle while their license is suspended for reckless driving. (Veh. Code, § 14601, subds. (a)-(b).)

8) **Argument in Support**: According to the *Burbank Armenian Association*, "The Burbank Armenian Association is a nonprofit organization dedicated to strengthening our community through civic engagement and public safety advocacy. Following the tragic high speed crash on Glenoaks Boulevard in 2021 that claimed the lives of three young people, our organization launched the Burbank Community's Drive Right, Save Lives Driver Safety Campaign in partnership with local law enforcement, schools, and more than 30 community organizations to promote awareness, education, and prevention.

"Reckless driving continues to pose a serious and preventable threat to public safety across California and within our local communities. According to enforcement data from the Burbank and Glendale Police Departments, officers encounter approximately 9,900 speeding violations, 780 hit and run incidents, 100 reckless driving violations, and 40 street racing incidents each year, contributing to hundreds of collisions involving injury or death.[3] This reflects a broader statewide crisis. In 2025 alone, California recorded 2,390 fatalities and more than 160,000 crashes involving injury or death, with reckless driving among the primary contributing factors.

"Current law does not provide sufficient tools to deter repeat reckless driving or ensure accountability. SB 1198 will strengthen enforcement, increase penalties for repeat offenders, and establish meaningful accountability measures to help prevent future tragedies. The Burbank Armenian Association is honored to serve as a sponsor of SB 1198 and respectfully urges its passage to protect families and improve public safety across California."

9) **Argument in Opposition**: According to *La Defensa*, "Reckless driving already carries numerous consequences under current law. Reckless driving is a misdemeanor punishable by a fine of up to $1000 and 90 days of incarceration. If the violation results in injuries, the punishments are steeper. Current law also authorizes a police officer to impound an individual's vehicle for up to 30 days. Moreover, a court may suspend an individual's license for up to 6 months. On a national level, California's punishment scheme is the same or harsher than 31 other states. Despite this, SB 1198 would ratchet up the license suspension and vehicle impoundment durations.

"[V]ehicle impoundments punish entire families, not just the individual who violated the Vehicle Code. For example, a mother's car may be impounded because her child caused a violation while driving the car. This can have devastating impacts as tow and storage fees are often more than people can afford, and when an individual cannot pay the fees associated with the impoundment, the vehicle is sold at auction. According to a 2018 federal report, 46% of American adults lack the savings necessary to cover an unanticipated expense of $400 or more. But a report from the following year found that the average towing and storage fees in California for a vehicle that is held for just 3 days is nearly $500. We should not punish families in this way, especially when vehicles are often key to a family's ability to get to work, go grocery shopping, pick children up from school, or get to the hospital in an emergency.

"Moreover, SB 1198's impoundment scheme punishes the owner of the vehicle, regardless of if they were the driver at the time of the violation. Although the issues of tow and storage

fees exist under the current scheme, current law allows a registered owner to retrieve their car before the impoundment period concludes if they can show that they were neither the passenger or the driver at the time of the violation or that they were unaware that the driver was using the vehicle.9 SB 1198 strictly limits this relief, stating that a registered owner can only avail themselves of this relief three times. In doing so, SB 1198 unnecessarily punishes innocent registered owners and further exacerbates the issue of impoundments devastating families' economic stability. Additionally, this provision raises potential Due Process concerns as the State would be impounding innocent owners' vehicles, without any avenue for recourse, solely because of events outside of the innocent owner's knowledge or control."

10) **Related Legislation**:

a) AB 1588 (Stefani) would establish new criminal penalties for engaging in an exhibition of speed, where the violation occurred as part of a sideshow, and expands the definition of a sideshow. AB 1588 is pending a hearing in the Senate Transportation Committee.

b) AB 1687 (Lackey) would authorize the DMV to revoke a person's driver's license for eight years if they are convicted of three or more specified impaired driving offenses within ten years. AB 1687 is pending a hearing in the Senate Public Safety Committee.

c) AB 1748 (Sanchez) would have increased the length of the driver's license suspensions and revocations that apply to a conviction for a DUI or a conviction for a DUI causing bodily injury. AB 1748 failed passage in this Committee.

11) **Prior Legislation**:

a) AB 983 (Macedo), of the 2025-2026 Legislative Session, would have authorized vehicle impoundment for any violation of speeding in excess of 100 miles per hour, as specified. The hearing on AB 983 was canceled at the author's request.

b) AB 1407 (Friedman), of the 2019-2020 Legislative Session, would have authorized law enforcement to impound a vehicle for 30 days if the vehicle's registered owner is convicted of reckless driving, and would have required the vehicle to be impounded for 30 days for a second or subsequent offense. AB 1407 was vetoed.

c) AB 1393 (Friedman), of the 2017-2018 Legislative Session, would have provided that if a person is convicted of reckless driving, and it is their second or subsequent offense, the vehicle used in the offense must be impounded for 30 days. AB 1393 was vetoed.

d) SB 510 (Hall), of the 2015-2016 Legislative Session, would have required, rather than allowed, a vehicle that is determined to have been involved in a speed contest or engaged in reckless driving to be impounded for 30 days. SB 510 was vetoed.

REGISTERED SUPPORT / OPPOSITION:

Support

Burbank Armenian Association (Sponsor)
Arcadia Police Officers' Association

Armenian National Committee of America Burbank Chapter
Boys & Girls Club of Burbank and Greater East Valley
Brea Police Association
Burbank Police Officers' Association
Burbank/burbank Redevelopment Agency; City of
California Association of Highway Patrolmen
California Association of School Police Chiefs
California Coalition of School Safety Professionals
California Narcotic Officers' Association
California Police Chiefs Association
California Reserve Peace Officers Association
City of Pico Rivera
Claremont Police Officers Association
Corona Police Officers Association
Culver City Police Officers' Association
Fullerton Police Officers' Association
Justice for Four Angels
Los Angeles School Police Management Association
Los Angeles School Police Officers Association
Mid Valley Family YMCA
Murrieta Police Officers' Association
Newport Beach Police Association
Palos Verdes Police Officers Association
Peace Officers Research Association of California (PORAC)
Placer County Deputy Sheriffs' Assocation
Pomona Police Officers' Association
Riverside Police Officers Association
Riverside Sheriffs' Association
Streets are for Everyone (SAFE) (ORG)
Streets for All
The East Valley Family YMCA
West Valley Family YMCA

Opposition

ACLU California Action
All of US or None (HQ)
California Attorneys for Criminal Justice
Felony Murder Elimination Project
Justice2jobs Coalition
LA Defensa
Lawyers Committee for Civil Rights of the San Francisco Bay Area
Legal Services for Prisoners With Children
Local 148 Los Angeles County Public Defender's Union
San Francisco Public Defender

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

Amended Mock-up for 2025-2026 SB-1198 (Menjivar (S))

Mock-up based on Version Number 97 - Amended Senate 5/14/26
Submitted by: Staff Name, Office Name

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

SECTION 1. Section 13200 of the Vehicle Code is amended to read:

13200. (a) Whenever any person licensed under this code is convicted of a violation of any provision of this code relating to the speed of vehicles or a violation of Section 23103 the court may, unless this code makes mandatory a revocation by the department, suspend the privilege of the person to operate a motor vehicle for a period of not to exceed 30 days upon a first conviction, for a period of not to exceed 60 days upon a second conviction, and for a period of not to exceed six months upon a third or any subsequent conviction.

(b) This section shall remain in effect only until January 1, 2028, and as of that date is repealed.

SEC. 2. Section 13200 is added to the Vehicle Code, to read:

13200.(a) Whenever any person licensed under this code is convicted of a violation of any provision of this code relating to the speed of vehicles, the court may, unless this code makes mandatory a revocation by the department, suspend the privilege of the person to operate a motor vehicle for a period not to exceed 30 days upon a first conviction, for a period not to exceed 60 days upon a second conviction, and for a period not to exceed six months upon a third or any subsequent conviction.

(b) (1) Whenever any person licensed under this code is convicted of a violation of Section 23103, the court may, unless this code makes mandatory a revocation by the department, suspend the privilege of the person to operate a motor vehicle for a period not to exceed 60 days upon a first conviction~~.(2) Whenever any person licensed under this code is convicted of a violation of Section 23103, the court may suspend the privilege of the person to operate a motor vehicle~~, and for a period of not less than 30 days and not to exceed six months upon a second conviction.

(2)Whenever any person licensed under this code is convicted of a violation of Section 23103, the court shall, unless this code makes mandatory a revocation by the department, ~~, and shall~~ suspend the privilege of the person to operate a motor vehicle for a period of not less than 90 days and not to exceed one year upon a third or any subsequent conviction.

(c) This section shall become operative on January 1, 2028.

Staff name
Office name
06/19/2026

SEC. 3. Section 23109.2 of the Vehicle Code is amended to read:

23109.2. (a) (1) Whenever a peace officer determines that a person was engaged in an activity set forth in paragraph (2), the peace officer may immediately arrest and take into custody that person and may cause the removal and seizure of the motor vehicle used in that offense pursuant to Chapter 10 (commencing with Section 22650). A motor vehicle that is seized may be impounded for not more than 30 days.

(2) (A) A motor vehicle speed contest, as described in subdivision (a) of Section 23109.

(B) (i) Exhibition of speed on a highway or in an offstreet parking facility, as described in subdivision (c) of Section 23109.

(ii) This subparagraph does not apply to aiding or abetting an exhibition of speed on any highway or in an offstreet parking facility.

(b) The registered and legal owner of a vehicle removed and seized under subdivision (a) or their agents shall be provided the opportunity for a storage hearing to determine the validity of the storage in accordance with Section 22852.

(c) (1) Notwithstanding Chapter 10 (commencing with Section 22650) or any other law, an impounding agency shall release a motor vehicle to the registered owner or their agent prior to the conclusion of the impoundment period described in subdivision (a) under any of the following circumstances:

(A) If the vehicle is a stolen vehicle.

(B) If the person alleged to have been engaged in the motor vehicle speed contest, as described in subdivision (a), was not authorized by the registered owner of the motor vehicle to operate the motor vehicle at the time of the commission of the offense.

(C) If the registered owner of the vehicle was neither the driver nor a passenger of the vehicle at the time of the alleged violation pursuant to subdivision (a), or was unaware that the driver was using the vehicle to engage in an activity described in subdivision (a).

(D) If the legal owner or registered owner of the vehicle is a rental car agency.

(E) If, prior to the conclusion of the impoundment period, a citation or notice is dismissed under Section 40500, criminal charges are not filed by the district attorney because of a lack of evidence, or the charges are otherwise dismissed by the court.

(2) A vehicle shall be released pursuant to this subdivision only if the registered owner or their agent presents a currently valid driver's license to operate the vehicle and proof of current vehicle registration, or if ordered by a court.

(3) If, pursuant to subparagraph (E) of paragraph (1), a motor vehicle is released prior to the conclusion of the impoundment period, neither the person charged with a violation of subdivision (a) of Section 23109 nor the registered owner of the motor vehicle is responsible for towing and storage charges nor shall the motor vehicle be sold to satisfy those charges.

(d) A vehicle seized and removed under subdivision (a) shall be released to the legal owner of the vehicle, or the legal owner's agent, on or before the 30th day of impoundment if all of the following conditions are met:

(1) The legal owner is a motor vehicle dealer, bank, credit union, acceptance corporation, or other licensed financial institution legally operating in this state, or is another person, not the registered owner, holding a security interest in the vehicle.

(2) The legal owner or the legal owner's agent pays all towing and storage fees related to the impoundment of the vehicle. Lien sale processing fees shall not be charged to a legal owner who redeems the vehicle on or before the 15th day of impoundment.

(3) The legal owner or the legal owner's agent presents foreclosure documents or an affidavit of repossession for the vehicle.

(e) (1) The registered owner or the registered owner's agent is responsible for all towing and storage charges related to the impoundment, and any administrative charges authorized under Section 22850.5.

(2) Notwithstanding paragraph (1), if the person convicted of engaging in the activities set forth in paragraph (2) of subdivision (a) was not authorized by the registered owner of the motor vehicle to operate the motor vehicle at the time of the commission of the offense, the court shall order the convicted person to reimburse the registered owner for any towing and storage charges related to the impoundment, and any administrative charges authorized under Section 22850.5 incurred by the registered owner to obtain possession of the vehicle, unless the court finds that the person convicted does not have the ability to pay all or part of those charges.

(3) If the vehicle is a rental vehicle, the rental car agency may require the person to whom the vehicle was rented to pay all towing and storage charges related to the impoundment and any administrative charges authorized under Section 22850.5 incurred by the rental car agency in connection with obtaining possession of the vehicle.

(4) The owner is not liable for any towing and storage charges related to the impoundment if acquittal or dismissal occurs.

(5) The vehicle may not be sold prior to the defendant's conviction.

(6) The impounding agency is responsible for the actual costs incurred by the towing agency as a result of the impoundment should the registered owner be absolved of liability for those charges

pursuant to paragraph (3) of subdivision (c). Notwithstanding this provision, an impounding agency is not prohibited from making prior payment arrangements to satisfy this requirement.

(f) A period when a vehicle is subjected to storage under this section shall be included as part of the period of impoundment ordered by the court under subdivision (h) of Section 23109.

SEC. 4. Section 23109.4 is added to the Vehicle Code, to read:

23109.4. (a) (1) Whenever a peace officer determines that a person was engaged in an activity set forth in paragraph (2), the peace officer may immediately arrest and take into custody that person and may cause the removal and seizure of the motor vehicle used in that offense pursuant to Chapter 10 (commencing with Section 22650). A motor vehicle that is seized may be impounded for not more than 30 days.

(2) (A) Reckless driving on a highway, as described in subdivision (a) of Section 23103.

(B) Reckless driving in an offstreet parking facility, as described in subdivision (b) of Section 23103.

~~**(3) A motor vehicle that is seized pursuant to paragraph (1) may be impounded for not less than 60 days and not more than 90 days if the person has a conviction for a violation of Section 23103 that occurred within three years before the current offense.**~~

(b) The registered and legal owner of a vehicle removed and seized under subdivision (a) or their agents shall be provided the opportunity for a storage hearing to determine the validity of the storage in accordance with Section 22852.

(c) (1) Notwithstanding Chapter 10 (commencing with Section 22650) or any other law, an impounding agency shall release a motor vehicle to the registered owner or their agent prior to the conclusion of the impoundment period described in subdivision (a) under any of the following circumstances:

(A) If the vehicle is a stolen vehicle.

(B) If the person alleged to have been engaged in reckless driving, as described in subdivision (a), was not authorized by the registered owner of the motor vehicle to operate the motor vehicle at the time of the commission of the offense. The registered owner shall provide evidence that the person did not have authorization from the registered owner to operate the vehicle, including, but not limited to, theft reports, documented history of unauthorized use, or communication denying use of the vehicle.

(C) (i) If the registered owner of the vehicle was neither the driver nor a passenger of the vehicle at the time of the alleged violation pursuant to subdivision (a), or was unaware that the driver was using the vehicle to engage in an activity described in subdivision (a). The registered owner

shall submit a written, signed statement attesting that the registered owner was unaware that the driver was using the vehicle to engage in reckless driving.

(ii) The relief available in clause (i) shall only be available to a registered owner of a vehicle three times. A registered owner is prohibited from using the relief available in clause (i) for a fourth or any subsequent arrest described in subdivision (a) that involves the same driver and vehicle.

(D) If the legal owner or registered owner of the vehicle is a rental car agency.

(E) If, prior to the conclusion of the impoundment period, a citation or notice is dismissed under Section 40500, criminal charges are not filed by the district attorney because of a lack of evidence, or the charges are otherwise dismissed by the court.

(2) A vehicle shall be released pursuant to this subdivision only if the registered owner or their agent presents a currently valid driver's license to operate the vehicle and proof of current vehicle registration, or if ordered by a court.

(3) If, pursuant to subparagraph (E) of paragraph (1), a motor vehicle is released prior to the conclusion of the impoundment period, neither the person charged with a violation of Section 23103 nor the registered owner of the motor vehicle is responsible for towing and storage charges nor shall the motor vehicle be sold to satisfy those charges.

(d) A vehicle seized and removed under subdivision (a) shall be released to the legal owner of the vehicle, or the legal owner's agent, on or before the 30th day of impoundment if all of the following conditions are met:

(1) The legal owner is a motor vehicle dealer, bank, credit union, acceptance corporation, or other licensed financial institution legally operating in this state, or is another person, not the registered owner, holding a security interest in the vehicle.

(2) The legal owner or the legal owner's agent pays all towing and storage fees related to the impoundment of the vehicle. Lien sale processing fees shall not be charged to a legal owner who redeems the vehicle on or before the 15th day of impoundment.

(3) The legal owner or the legal owner's agent presents foreclosure documents or an affidavit of repossession for the vehicle.

(e) (1) The registered owner or the registered owner's agent is responsible for all towing and storage charges related to the impoundment, and any administrative charges authorized under Section 22850.5.

(2) Notwithstanding paragraph (1), if the person convicted of engaging in the activities set forth in paragraph (2) of subdivision (a) was not authorized by the registered owner of the motor vehicle to operate the motor vehicle at the time of the commission of the offense, the court shall

order the convicted person to reimburse the registered owner for any towing and storage charges related to the impoundment, and any administrative charges authorized under Section 22850.5 incurred by the registered owner to obtain possession of the vehicle, unless the court finds that the person convicted does not have the ability to pay all or part of those charges.

(3) If the vehicle is a rental vehicle, the rental car agency may require the person to whom the vehicle was rented to pay all towing and storage charges related to the impoundment and any administrative charges authorized under Section 22850.5 incurred by the rental car agency in connection with obtaining possession of the vehicle.

(4) The owner is not liable for any towing and storage charges related to the impoundment if acquittal or dismissal occurs.

(5) The vehicle may not be sold prior to the defendant's conviction.

(6) The impounding agency is responsible for the actual costs incurred by the towing agency as a result of the impoundment should the registered owner be absolved of liability for those charges pursuant to paragraph (3) of subdivision (c). Notwithstanding this provision, an impounding agency is not prohibited from making prior payment arrangements to satisfy this requirement.

(f) A period when a vehicle is subjected to storage under this section shall be included as part of the period of impoundment ordered by the court under subdivision (h) of Section 23109.

Date of Hearing: June 23, 2026
Counsel: Dustin Weber

ASSEMBLY COMMITTEE ON PUBLIC SAFETY
Nick Schultz, Chair

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

PULLED BY THE AUTHOR

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

Date of Hearing: June 23, 2026
Counsel: Kimberly Horiuchi

ASSEMBLY COMMITTEE ON PUBLIC SAFETY
Nick Schultz, Chair

SB 1211 (Gonzalez) – As Amended May 18, 2026

SUMMARY: Authorizes the district attorney to file a notice with the court notifying it of their intent to conduct a postconviction investigation of a claim of factual innocence, if the district attorney accepts a case for postconviction review. Specifically, **this bill**:

1) States the phrase "accepts a case for postconviction review" means that a conviction integrity unit (CIU) or other formally designated unit of a district attorney's office tasked solely with the investigation and review of postconviction claims of factual innocence - or, if no such unit exists, a district attorney or team assigned by the district attorney's office to conduct an independent postconviction investigation and review - has formally accepted for internal review a claim of factual innocence at the request or initiation of the petitioner alleging factual innocence.

2) Requires the case, after filing the notice described above, to be treated as if it were an open case for the purpose of investigating a claim of factual innocence.

3) Specifies that the district attorney has the power to issue subpoenas and compel the production of documents and testimony, as provided, and file motions necessary to investigate claims, including for production of peace officer personnel records, and motions for court-ordered appointment of counsel, among others.

4) Mandates the district attorney obtain a written waiver from the petitioner or petitioner's counsel before discovery may be authorized, to the extent the district attorney seeks otherwise confidential materials relating to the petitioner, including, but not limited to, materials contained in the petitioner's central file, institutional records, medical records, employment records, or school records.

5) Prohibits the district attorney from being granted any authority to conduct a postconviction investigation if any direct appeal, habeas corpus proceeding, motion for new trial, or other collateral attack concerning the same conviction is pending in any state or federal court, unless the petitioner or petitioner's counsel agrees to the exercise of that authority.

6) States that if the district attorney learns, pursuant to the powers conferred to the district attorney by this bill, of new, credible, and material evidence creating a reasonable likelihood that the petitioner did not commit an offense of which the petitioner was convicted, the district attorney must promptly disclose that evidence to the court, and if the conviction was obtained in the district attorney's jurisdiction, promptly disclose that evidence to the petitioner unless the court authorizes delay.

7) Requires all materials obtained through the process specified in this bill to be equally disclosed to the petitioner or the petitioner's counsel within 60 days of the termination of the investigation.

8) States the provisions of this bill do not relieve a district attorney of their obligation to remedy a conviction upon a determination of factual innocence.

9) Authorizes the district attorney to implement written policies and procedures to ensure compliance with this section.

EXISTING LAW:

1) Provides, in any case where a person has been arrested and no accusatory pleading has been filed, the person arrested may petition the law enforcement agency having jurisdiction over the offense to destroy its records of the arrest. Requires a copy of the petition to be served upon the prosecuting attorney of the county or city having jurisdiction over the offense. Requires the law enforcement agency having jurisdiction over the offense to seal its arrest records and the petition for relief for three years from the date of the arrest and thereafter destroy its arrest records and the petition, upon a determination that the person arrested is factually innocent. (Pen. Code, § 851.85, subd. (a).)

2) Requires the law enforcement agency having jurisdiction over the offense to notify the Department of Justice (DOJ), and any law enforcement agency that arrested the petitioner or participated in the arrest of the petitioner for an offense for which the petitioner has been found factually innocent, of the sealing of the arrest records and the reason. Requires DOJ and any law enforcement agency so notified to seal their arrest records and the notice of sealing for three years from the date of the arrest, and thereafter destroy their records of the arrest and the notice of sealing. Requires the law enforcement agency having jurisdiction over the offense and the DOJ to request the destruction of any records of the arrest which they have given to any local, state, or federal agency or to any other person or entity. Requires each agency, person, or entity within California receiving the request to destroy its records of the arrest and the request, unless otherwise provided in this section. (Pen. Code, § 851.85, subd. (a).)

3) Provides that after receiving a petition for relief, if the law enforcement agency and prosecuting attorney do not respond to the petition by accepting or denying the petition within 60 days after the running of the relevant statute of limitations or within 60 days after receipt of the petition in cases where the statute of limitations has previously lapsed, the petition is deemed to be denied. (Pen. Code, § 851.85, subd. (b).)

4) Authorizes any judicial determination of factual innocence to be heard and determined upon declarations, affidavits, police reports, or any other evidence submitted by the parties which is material, relevant, and reliable. Prohibits a finding of factual innocence and an order for the sealing and destruction of records from being made unless the court finds that no reasonable cause exists to believe that the arrestee committed the offense for which the arrest was made. (Pen. Code, § 851.85, subd. (b).)

5) Provides, in any court hearing to determine the factual innocence of a party, that the initial burden of proof rests with the petitioner to show that no reasonable cause exists to believe

that the arrestee committed the offense for which the arrest was made. Provides that the burden of proof shifts to the respondent to show that a reasonable cause exists to believe that the petitioner committed the offense for which the arrest was made if the court finds that this showing of no reasonable cause has been made by the petitioner. (Pen. Code, § 851.85, subd. (b).)

6) Requires the court, if it finds the arrestee to be factually innocent of the charges for which the arrest was made, to order the law enforcement agency having jurisdiction over the offense, the DOJ, and any law enforcement agency which arrested the petitioner or participated in the arrest of the petitioner for an offense for which the petitioner has been found factually innocent to seal their records of the arrest and the court order to seal and destroy the records, for three years from the date of the arrest and to then destroy their records of the arrest and the court order to seal and destroy those records. (Pen. Code, § 851.85, subd. (b).)

7) Authorizes a defendant, in any case where a person has been arrested and an accusatory pleading has been filed, but where no conviction has occurred, to petition the court that dismissed the action for a finding that the defendant is factually innocent of the charges for which the arrest was made, at any time after dismissal of the action. Requires a copy of the petition to be served on the prosecuting attorney in which the accusatory pleading was filed at least 10 days prior to the hearing on the petitioner's factual innocence. Authorizes the prosecuting attorney to present evidence to the court at the hearing. Requires the hearing to be conducted as provided above. Requires the court to grant relief if the court finds the petitioner to be factually innocent of the charges for which the arrest was made. (Pen. Code, § 851.85, subd. (c).)

8) Authorizes the court, with the concurrence of the prosecuting attorney, to grant the relief described above, in any case where a person has been arrested and an accusatory pleading has been filed, but where no conviction has occurred, at the time of the dismissal of the accusatory pleading. (Pen. Code, § 851.85, subd. (d).)

9) Authorizes the court, whenever any person is acquitted of a charge and it appears to the judge presiding at the trial at which the acquittal occurred that the defendant was factually innocent of the charge, to grant the relief described above. (Pen. Code, § 851.85, subd. (e).)

10) Requires the law enforcement agency having jurisdiction over the offense or court, in any case where a person who has been arrested is granted relief, to issue a written declaration to the arrestee stating that it is the determination of the law enforcement agency having jurisdiction over the offense or court that the arrestee is factually innocent of the charges for which the person was arrested and that the arrestee is thereby exonerated. Provides that the arrest is deemed not to have occurred and the person may answer accordingly any question relating to its occurrence. (Pen. Code, § 851.85, subd. (f).)

11) Authorizes the judge, whenever a person is acquitted of a charge and it appears to the judge presiding at the trial that the defendant was factually innocent of the charge, to order that the records in the case be sealed, including any record of arrest or detention, upon the written or oral motion of any party in the case or the court, and with notice to all parties to the case. Requires the court, if such an order is made, to give the defendant a copy of such order and inform the defendant that he may thereafter state that he was not arrested for such charge and that he was found innocent of such charge by the court. (Pen. Code, § 851.85.)

12) Requires the judge, whenever a person is convicted of a charge and the conviction is set aside based upon a determination that the person was factually innocent of the charge, to order that the records in the case be sealed, including any record of arrest or detention, upon written or oral motion of any party in the case or the court, and with notice to all parties to the case. Requires the court, if such an order is made, to give the defendant a copy of that order and inform the defendant that the person may state they were not arrested for that charge and that they were not convicted of that charge, and that they were found innocent of that charge by the court. (Pen. Code, § 851.86.)

FISCAL EFFECT: Unknown.

COMMENTS:

1) **Sponsor**: Los Angeles County District Attorney's Office.

2) **Author's Statement**: According to the author, "Conviction Integrity Units (CIUs), housed within District Attorney offices, are tasked with investigating post-conviction innocence claims, including the mishandling of evidence, constitutional violations, juror misconduct, and factual innocence. California has 297 recorded exonerations, and CIUs have, to date, exonerated 35 individuals since their formation. Factual innocence investigations are investigations of closed cases, which makes it difficult for CIUs to access the documents and evidence needed to conduct their research of the claim. These delays can prevent access to justice for incarcerated individuals serving prison time for a crime they did not commit. SB 1211 streamlines the processing of post-conviction claims of factual innocence by clarifying that CIUs within prosecutorial agencies may investigate these claims as if they were open cases."

3) **History of CIUs:** According to a Universidad de Puerto Rico journal article from 2023, conviction integrity efforts began in the mid-aughts in Orange County:

> Conviction Integrity Units (hereafter CIUs) are specialized units within the office of local prosecutors whose sole focus is to review the claims of the wrongly convicted. The first CIU was established in Santa Ana, California in 2004, before being disbanded and then reassembled in 2008. Dallas, Texas has the longest-standing CIU, with its founding in 2007. It seems hardly a coincidence that just as CIUs were gaining traction and popularity, the American Bar Association took notice and amended the Model Rules (MR) by adopting MR 3.8(g) and (h), which, for the first time, enumerated a prosecutor's ethical duties in the face of evidence of a possible wrongful conviction. This made it clear to prosecutors across the United States that seeking justice, not convictions, would always be the main priority. MR 3.8(g) compels the prosecutor to disclose any new evidence that could undermine the conviction and conduct appropriate investigations, and MR 3.8 (h) takes it a step further, compelling the prosecutor to remedy a conviction upon learning of convincing evidence that proves that said offense

> wasn't committed. In a system where high conviction rates lead to promotions, and prosecutors are lauded for 'winning' cases, MR 3.8 helps shift the focus of the ministers of justice back to their main mission, the pursuit of justice.[1]

The journal article concluded that CIUs should be improved and meaningfully supported in district attorney offices.

> CIUs have come a long way since the first one was founded in 2004, and they have a promising future in promulgating post-conviction justice. The close to twenty-year history of these units means that through critical analysis, some better practices can be established. One factor of importance that almost all CIUs follow is removing the original prosecutor from the CIU investigation to minimize bias. Another factor that contributes to CIU success is the involvement of an external advisory board that can add accountability, a fresh perspective, and much-needed resources to the CIUs. Innocence organizations have proven their efficacy in working alongside CIUs, with over half of 2022's recorded exonerations coming as a product of collaboration between the two.
>
> Progressive CIUs like those in Philadelphia County, PA, and Kings County, NY, are expanding the aperture of cases eligible for review, bringing a more comprehensive approach to the post-conviction process. As more counties develop CIUs, and as these CIUs broaden their standards of review, the future of post-conviction relief and exonerations of innocent individuals has never looked brighter.[2]

This bill seeks to arm district attorneys working in CIUs with more procedural tools to gather evidence regarding a person's conviction. For instance, if there are concerns that a detective or officer may have misrepresented evidence or even lied about facts in the investigation, the prosecutor may need to access the peace officer's personnel records to determine if any discipline resulted or has previously been imposed for questionable investigative conduct. This is not necessarily the type of evidence that would be otherwise publicly available; therefore, it is critical for the prosecutor re-investigating the case to receive subpoena power and access to information.

Penal Code section 832.7 generally pertains to access to peace officer personnel records. Peace officer personnel records include: (a) personal data, including marital status, family members, educational and employment history, home addresses, or similar information; (b) medical history; (c) election of employee benefits; (d) employee advancement, appraisal, or discipline; (e) complaints, or investigations of complaints, concerning an event or transaction

---

[1] Maron, "*Commentary: Pursuing Justice with Conviction: A Critical Analysis of Conviction Integrity Units,*" University of Puerto Rico, September 2024.
[2] *Ibid.*

in which he or she participated, or which they perceived, and pertaining to the manner in which he or she performed their duties; and (f) any other information the disclosure of which would constitute an unwarranted invasion of personal privacy. (Pen. Code, § 832.8, subd. (a)(1)-(6).) Penal Code section 832.7, subdivision (a) generally makes citizen complaints against a peace officer, and peace officer personnel records **confidential**. (Pen. Code, § 832.7, subd. (a).) This bill would prevent the district attorney from having to file what is known as a *Pitchess* motion to obtain those records. (See generally *Warrick v. Superior Court [City of Los Angeles]* (2005) 35 Cal.4th 1011.)

4) **Resentencing Programs:** AB 145 (Committee on Budget), Chapter 80, Statutes of 2021, established collaborative county resentencing pilot which established a collaborative re-sentencing program between District Attorneys' offices, community based organizations, and Public Defender offices. The purpose of the pilot program was to identify, investigate, and recommend the recall and resentencing of incarcerated persons. (See Pen. Code, § 1172.) The pilot term began on September 1, 2021, and ended on September 1, 2024. The counties chosen for this pilot program were: Los Angeles, Santa Clara, San Francisco, Contra Costa, Riverside, San Diego, Yolo, Merced, and Humboldt. (See AB 128 (Com. on Budget), Ch. 21, Stats. 2021.) The 2021-2022 Budget appropriated $18 million in General Funds over three years to these nine counties to engage in Prosecutor-Initiated Resentencing. (See AB 128 (Com. on Budget) Ch. 21, Stats. 2021.) The parameters of the pilot program did not place limits on what type of cases a participating district attorney's office can consider for recall and resentencing.[3]

   At the conclusion of the pilot program, RAND was contracted to determine the success of the program. RAND concluded that the program was largely successful creating more global solutions, it also stated more information is necessary to determine what affect prosecutor initiated resentencing (PIR) had on recidivism.

> A key issue that needs to be examined is the experiences of individuals who have been resentenced when they return to the community—both in terms of recidivism and in terms of their reentry experiences. A critical step in monitoring the experiences of those resentenced and released under PIR is understanding the incidence of recidivism. Because the majority of individuals released under PIR have rejoined society over the second half of the pilot, we will produce additional reports focused on the recidivism experiences of these individuals. In particular, we will focus on convictions for new crimes over the three years following release.
>
> More broadly, information on what happened to individuals who were resentenced and released—what type of support needs they had, what reentry services they received, and what made a difference in terms of whether they were successful following release and had a lower risk of reoffending—is

[3] The legislature subsequently provided RAND with additional funding to conduct a three-year recidivism study beginning in January 2025 and a review of the pilot program's success.

> important to examine to understand the context and full impact of the PIR pilot, as well as what could be improved in terms of ensuring that individuals received the support services they needed for successful reentry.[4]

As noted above, this bill attempts to solve for some of the barriers that exist when district attorney offices begin the process of investigating possible wrongful convictions.

5) **Argument in Support**: According to *Los Angeles District Attorney's Office*: "Specifically, the wording of existing law hampers the work of our Justice Conviction Review Unit (JCRU) because JCRU only investigates cases in which an individual has already been convicted. Current law provides prosecutorial agencies such as ours with avenues to resources during the pendency of open cases but denies us the ability to access materials after a defendant has been convicted. This unavailability of important information hinders our Office's ability to perform a comprehensive investigation of a post-conviction claim of factual innocence.

"Under current statutes, unavailable resources include:

1. Subpoenas Duces Tecum (SDTs): Prosecutorial agencies may not issue SDTs for production of documents because there are no pending court dates.

2. Confidential Files (C-files): Prosecutorial agencies may not SDT C-Files from the California Depa1iment of Correction and Rehabilitation (CDCR). Under CDCR rules, our Office would have to pay for the production of the prison records of unrepresented claimants, of which there are many C-Files are often critical to our truth-finding defemination process, especially the confidential 1isk assessment report that may detail the inmate's version of the charged criminal conduct.

3. Pitchess Motions: At present, the Los Angeles City Attorney is challenging our Office's ability to review information in a law enforcement officer's personnel file, arguing that the Pitchess motion filed by JCRU personnel on five cases under review is only available on open cases.

4. Removal Orders: The Federal Bureau of Prisons refuses to honor removal orders served by our Office because there is no open and pending matter.

5. Appointment of Counsel: Inmates who have filed a claim pro per and witnesses who may have a privilege may need the appointment of counsel. Some judges have been reluctant or have refused to appoint counsel without an open matter.

"SB 1211 would solve these unintended obstacles to investigating factual innocence claims by providing prosecutorial agencies with the jurisdictional authority to investigate post-conviction claims in the same manner that our Office has to investigate open cases. An exoneration occurs when a person who has been convicted of a crime is officially cleared after new evidence of innocence becomes available. Since our JCRU was formed, our Office

---

[4] Daivs, et al. *"Evaluation of the California County Resentencing Pilot Program: Year 3 Finding,"* RAND, 2025, p. 73.

has been able to exonerate 16 individuals. When individuals who have been exonerated through the more traditional habeas corpus litigation process are included in that calculation, our Office has exonerated a total of 159 individuals. These statistics demonstrate that our criminal justice system does not always work the way it was intended. Because i people occasionally suffer criminal convictions, it is incumbent that prosecutorial agencies are empowered with as many resources as possible to investigate claims of actual innocence in order to reach a fair and appropriate outcome. Without the investigatory tools that are typically available for an open case, the truth-finding process of innocence claims is uru1ecessarily delayed and sometimes actually hindered.

"Our JCRU currently has 76 cases under review, and new claims for post-conviction review are received most every week. There is no legal or policy reason to unnecessarily hinder these post-conviction innocence claims."

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

7) **Related Legislation**: AB 1595 (Schultz) authorizes a petitioner for habeas corpus relief, in order to overcome a procedural bar to relief based on untimeliness or successiveness, to identify changes in law or new evidence that create a reasonable probability of a different result sufficient to undermine confidence in the outcome of the case. AB 1595 is pending in Senate Public Safety Committee.

8) **Prior Legislation**:

   a) AB 1959 (Grayson), of the 2023-24 Legislative Session, would have established a pilot program for three district attorney offices, to be chosen by the Attorney General (AG), to establish Innocence Commissions to identify and reexamine cases involving allegations of factual innocence or wrongful conviction. AB 1959 was held on the Assembly Appropriations Committee suspense file.

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

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

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

REGISTERED SUPPORT / OPPOSITION:

Support

Los Angeles County District Attorney's Office (Sponsor)
California Association of Licensed Investigators
California Civil Liberties Advocacy
California Public Defenders Association
San Quentin Skunkworks

Opposition

None submitted.

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

Date of Hearing: June 23, 2026
Counsel: Dustin Weber

ASSEMBLY COMMITTEE ON PUBLIC SAFETY
Nick Schultz, Chair

SB 1220 (Hurtado) – As Introduced February 19, 2026

SUMMARY: Provides that any person who is convicted of knowingly possessing, purchasing, receiving, selling or offering for sale an unserialized firearm shall not own, purchase, receive or have in their possession any firearm for a period of 10 years, and a violation is punishable as a misdemeanor by imprisonment in a county jail not exceeding one year, by a fine not exceeding $1,000, or by both that fine and imprisonment.

EXISTING FEDERAL LAW:

1) States that the right of the people to keep and bear arms shall not be infringed. (U.S. Const., 2d Amend.)

2) States that it shall be unlawful for any person knowingly to transport, ship, or receive, in interstate or foreign commerce, any firearm which has had the importer's or manufacturer's serial number removed, obliterated, or altered or to possess or receive any firearm which has had the importer's or manufacturer's serial number removed, obliterated, or altered and has, at any time, been shipped or transported in interstate or foreign commerce. (18 U.S.C. § 922(k).)

EXISTING STATE LAW:

1) Provides that, except as provided, any person who, with knowledge of any change, alteration, removal or obliteration of a specified identifying mark on a firearm, buys, receives, disposes of, sells, offers for sale, or has in possession any pistol, revolver, or other firearm that has had the name of the maker or model, or the manufacturer's number or other mark of identification, including any distinguishing number or mark assigned by the Department of Justice (DOJ), an unserialized firearm is guilty of a misdemeanor. (Pen. Code, § 23920, subd. (a).)

2) States that before manufacturing or assembling a firearm, a person manufacturing or assembling the firearm shall, for any firearm that does not have a valid state or federal serial number or mark of identification imprinted on the frame or receiver, as specified. (Pen. Code, § 29180.)

3) Establishes that persons convicted of specified serious or violent misdemeanors are prohibited from possession of firearms for a period of 10 years and that a violation of that prohibition is punishable as a misdemeanor with imprisonment up to one year or as a state prison felony. (Pen. Code, § 29805, subd. (a).)

4) Includes within the list of misdemeanors triggering a 10-year firearm prohibition the crimes of stalking, sexual battery, assault with a deadly weapon, battery with serious bodily injury, brandishing a firearm of deadly weapon, assault with force likely to produce great bodily injury, battery on a peace officer, corporal injury to spouse, cohabitant or fellow parent, child abuse, elder abuse, unsafe storage of a firearm, threats of bodily injury or death, as well as specified crimes related to undetectable firearms, unserialized firearms, computer numerical control (CNC) milling machines, 3D printers used to manufacture firearms, assault weapons, .50 BMG rifles, multiburst trigger activators, and other firearms, among other misdemeanors. (Pen. Code, § 29805, subds. (a) & (h).)

5) States that persons with the knowledge that they have an outstanding warrant for any of the specified serious or violent misdemeanors that result in a 10-year prohibition are guilty of a crime if they possess a firearm while the warrant is outstanding. Provides that a violation is punishable as a misdemeanor, with imprisonment up to one year, or as a state prison felony. (Pen. Code, §§ 29805, subd. (a), 29851.)

6) Requires any person subject to a firearm prohibition based on a conviction of a felony or specified misdemeanor to relinquish any firearms they own, possess or have under their control or custody within 48 hours if the defendant is out of custody or within 14 days if the defendant is in custody. (Pen. Code, § 29810, subd. (a).)

7) Authorizes specified peace officers who have been convicted of a specified misdemeanor subject to a 10-year firearm prohibition to petition for relief. Requires the court, in deciding the petition, to consider the petitioner's continued employment, the interest of justice, any relevant evidence, whether the petitioner is otherwise not prohibited, and the totality of the circumstances. (Pen. Code, § 29855.)

8) Permits any person convicted of a specified misdemeanor, before that misdemeanor was added to the list of misdemeanors triggering a 10-year prohibition, to petition for relief. Requires the court, in deciding the petition, to ensure the petitioner is not otherwise prohibited, and may consider the interest of justice, any relevant evidence, and the totality of the circumstances. (Pen. Code, § 29860.)

9) Requires the Attorney General to establish and maintain an online database to be known as the Prohibited Armed Persons File, and who, subsequent to the date of ownership or possession of a firearm, fall within a class of persons who are prohibited from owning or possessing a firearm. (Pen. Code, § 30000, subd. (a).)

FISCAL EFFECT: Unknown

COMMENTS:

1) **Sponsor**: California Police Chiefs Association

2) **Author's Statement**: According to the author, "SB 1220 closes a narrow but important gap in California's firearm prohibition laws.

"California currently imposes a 10-year firearm prohibition on individuals convicted of specified misdemeanor offenses involving violence, threats of violence, and firearm-related misconduct. In recent years, the Legislature has expanded that list to include numerous offenses involving ghost guns and unlawful firearm manufacturing.

"Yet a conviction for knowingly buying, receiving, selling, offering for sale, or possessing a firearm with altered or removed identifying markings is not currently included on that list.

"Firearms with obliterated serial numbers are inherently difficult to trace and are frequently associated with unlawful firearm activity. Individuals convicted of knowingly possessing or trafficking such weapons should be treated consistently with individuals convicted of comparable firearm-related offenses already subject to California's 10-year firearm prohibition.

"This bill targets unlawful conduct, improves accountability, and helps law enforcement address the growing threat posed by ghost guns and unserialized firearms while preserving lawful firearm ownership."

3) **Effect of the Bill**: Existing state and federal law contains a myriad of prohibitions on the possession and attempted purchase of firearms by certain individuals. Under both state and federal law, all felony convictions lead to a lifetime prohibition. (18 U.S.C. § 922(g); Pen. Code, § 29800.) California law goes further and imposes a 10-year prohibition on the possession and purchase of firearms for individuals convicted of numerous misdemeanor offenses that involve either violence or threat of violence as well as certain firearm-related crimes. (Pen. Code, § 29805.)

   Existing law, subject to specified exceptions, makes it a misdemeanor for any person to, with knowledge of any change, alteration, removal or obliteration of certain identifying marks on firearms, to buy, receive, dispose of, sell, offer for sale or possess any firearm that has had such identifying mark removed or altered. This crime is generally referred to as the knowing possession of an unserialized firearm. SB 1220 adds a conviction for this crime to the 10-year firearm prohibition list described above.

4) **Armed and Prohibited Persons (APPS) Background**: In 2013, SB 140 (Leno), Chapter 2, Statutes of 2013, appropriated $24 million from the Dealers Record of Sale (DROS) Special Account to the DOJ to fund enforcement of illegal gun possession by prohibited persons. SB 140 required the DOJ to address the prohibited persons backlog and issue an annual report to the legislature for five years to provide updates on DOJ's progress in reducing the backlog. In 2019, at the expiration of that 5-year reporting requirement, SB 94 (Committee on Budget), Chapter 25, Statutes of 2019, provided updated requirements regarding the mandated reporting of APPS database statistics. SB 94 defined "backlog," for the purposes of the APPS, as "the number of cases for which the Department of Justice did not initiate an investigation within six months of the case being added to the APPS database or for which it has not completed investigatory work within six months of initiating an investigation on the case."

The most recent APPS SB 94 report to the Legislature covers calendar year 2025. According to the report, in 2025, DOJ removed 10,746 prohibited persons from the APPS database and added 12,035 prohibited persons.[1] Active cases are those for which the DOJ has not yet begun investigations or is in the process of investigating, while pending cases are those for which the DOJ has exhausted all leads or determined that the person is not within their jurisdiction.[2] As of January 1, 2026, the APPS database contained 27,199 armed and prohibited persons, and included 10,893 active cases and 16,306 pending cases.[3] The prior year's report indicated that the system had 10,044 active cases and 15,867 pending cases.[4] According to the DOJ, "A combination of factors resulted in a large increase in the number of individuals who were identified as subject to state or federal firearm prohibitions in 2025," including "legislation creating new misdemeanor prohibitions, increases in the number of individuals with firearm records known to DOJ, increases in the number of prohibiting events such as convictions and restraining orders, local record auditing efforts to identify and report previously unreported prohibiting events, as well as certain state and federal process changes related to individuals subject to outstanding felony arrest warrants and criminal protective orders."[5] It should be noted that the data covered by this report likely does not include APPS additions resulting from AB 1263 (Gipson), Chapter 636, Statutes of 2025, which only took effect January 1, 2026.

By adding yet another crime to the 10-year firearm prohibition list, this bill will invariably add new individuals to the APPS database, increase the ongoing backlog, and require additional reviews, investigations, and seizure operations by DOJ.

5) **The *Bruen* Analysis**: SB 1220 may invite judicial scrutiny, though it has a fair chance to survive constitutional review. To evaluate whether a law comports with the Second Amendment, the threshold consideration is determining whether the law infringes on plain text Second Amendment conduct. (*New York State Rifle & Pistol Association, Inc. v. Bruen* (2022) 597 U.S. 1, 17.) This is a low threshold to clear and generally will be cleared when a law purports to regulate a person's conduct with firearms. Assuming the threshold step is cleared, to survive constitutional scrutiny the government must demonstrate the law is "consistent with the nation's historical tradition of firearms regulation." (*Id.* at p. 24.) A firearms regulation is constitutional if the government establishes the proposed law is "relevantly similar" to historical laws, regulations, and traditions. (*Id.* at p. 29.) This means showing that historical laws comparably regulated for comparable reasons, i.e., how the laws regulated conduct and why the laws were established. (*Ibid.*) The appropriate analysis involves evaluating whether the law is consistent with the principles that underpin the Nation's regulatory tradition. (*United States v. Rahimi* (2024) 602 U.S. 680, 692.)

Whether SB 1220 is constitutional may, at least in part, depend on how the issue is presented. Under the *Bruen* test, asking whether the Second Amendment was originally understood to protect self-made arms may produce a different answer than asking whether there is a

---

[1] Cal. Dept. of Justice, Armed and Prohibited Persons Systems Report 2025: Annual Report to the Legislature, SB 94 Legislative Report, Calendar Year 2025 <https://oag.ca.gov/system/files/media/2025-apps-report.pdf> [as of June 12, 2026].

[2] *Ibid.*

[3] *Ibid.*

[4] *Ibid.*

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

tradition, at least in principle, of regulating unmarked arms. Very few courts have squarely addressed the constitutionality of laws regulating conduct with unserialized firearms since *Bruen* and only one federal district court found the requirement unconstitutional. (*United States v. Price* (S.D. W.Va. Oct. 12, 2022) 635 F.Supp.3d 455.) It is important to note that of all the cases addressing the constitutionality of the federal unserialized firearms prohibition the one court that found it unconstitutional was overturned by the Fourth Circuit Court of Appeals.[6] This court, however, did not decide the issue based on the *Bruen* historical tradition test but rather found that unserialized firearms were never in common use. (*United States v. Price* (4th Cir. 2024) 111 F.4th 392.) While no other federal appellate court appears to have traveled this path to uphold the constitutionality of unserialized firearms prohibitions, this approach seems to be supported by the *Heller* Court. (*Heller, supra*, at p. 627 [". . . the sorts of weapons protected were those 'in common use at the time.' We think that limitation is fairly supported by the historical tradition . . ."].) Another federal appellate court though did hold the Gun Control Act's (GCA) unserialized firearms prohibition constitutional under the *Bruen* test. (*United States v. Reyna* (7th Cir. 2026) 165 F.4th 1056.)

At the threshold step, SB 1220 does infringe on plain text Second Amendment conduct because it would limit an individual's ability to keep and bear arms, and it would subject a violator of the law to criminal penalties. While this bill's focus is subjecting violators of our unserialized firearms prohibition to inclusion on the 10-year firearms prohibition list, the constitutionality of the underlying law must be valid to support further prohibitions. (See *In re Rogers* (Cal. 1980) 28 Cal.3d 429.) The analysis then focuses on whether there is a historical tradition of regulating unserialized firearms.

There does appear to be some identifiable historical tradition of unserialized firearms regulation, though it is unclear whether that tradition is constitutionally sufficient. A helpful analogue to California's unserialized firearm prohibition is the GCA's similar prohibition. (18 U.S.C. § 922(k); Pen. Codes, §§ 23920, 29180.) Because there is almost no California case law on point and the Second Amendment has been incorporated to the States (*McDonald v. City of Chicago* (2010) 561 U.S. 742, 787), a review of other relevant case law and historical data should be helpful.

Early American governments established some regulations addressing the marking of firearms, barrels, gunpowder, and laws involving the firearms trade. (See *Teixeira v. County. of Alameda* (9th Cir. 2017) 873 F.3d 670, 685 [en banc].) Though serialization as we know it today was not in use during the ratification period, various regulations were implemented during the Framing-era to inventory and track firearms. (*Reyna, supra*, at p. 1063.) Even before the ratification era, Virginia required plantation commanders to take an annual count of arms and munitions. (*Ibid.*) During this era, it was also common for states to do inventories of firearms for militia purposes. (*Ibid.*) While laws tracking arms are not perfectly analogous to regulating unserialized firearms, they are arguably similar in principle to historical laws. Comparing how and why these regulations were implemented, however, is not clearly analogous.

---

[6] See, e.g., *United States v. Reyna* (7th Cir. 2026) 165 F.4th 1056; *United States v. Price* (4th Cir. 2024) 111 F.4th 392 [en banc]; *United States v. Avila* (D. Colo. May 8, 2023) 670 F.Supp.3d 1137; *United States v. Trujillo* (D.N.M. April 26, 2023) 670 F.Supp.3d 1235; *United States v. Bradley* (S.D. W.Va. Mar. 23, 2023) No. 2:22-CR-00098; *United States v. Serrano* (S.D. Cal. Jan 17, 2023) No. 3:21-CR-1590; *United States v. Tita* (D. Md. Dec. 22, 2022) No. l:21-CR-334; *United States v. Holton* (N.D. Tex. Nov. 3, 2022) No. 3:21-CR-0482-B.

There is additionally something of a Framing-era tradition requiring the marking of firearms. Serialization appears to have begun in the early nineteenth century. One source has serialization dating as far back as 1812 by John Dickson & Sons, though there is scant evidence that serialization was done during this period for public safety reasons.[7] At least from review of this source, it also appears that serialization was not common until at least the Civil War-era but really became ubiquitous in the twentieth century.[8]

George Washington required all firearms to be stamped with insignia during the Revolutionary War to keep track of arms and prevent theft. (*Reyna*, *supra*, at p. 1064.) Certain states required gun barrels to be marked, and violators were penalized for obliterating the marks. (*Ibid.*) Massachusetts established a process that required inspectors to stamp compliant firearms with their initials, the year of the inspection, and the letters "P" and "M." (*Ibid.*) Maine implemented a law requiring all barrels be permanently stamped and to provide a certificate attesting to the proof with their initials and the date. (*Ibid.*)

Though evidence for a historical tradition exists, there remain notable counterpoints. Because the burden is on government to demonstrate a longstanding tradition, either showing no representative regulatory tradition or evidence of an opposing tradition can constitutionally doom a firearms regulation. Beginning again in colonial America, the 1620 Charter of New England "granted colonists the right 'to take, load, carry, and transport' . . . shipping, armor, weapons, ordinances, munition, powder . . . and all other things necessary . . . for their use and defense."[9] Some of the most popular firearms in early America were made by solo gunsmiths who did not serialize their firearms.[10]

Self-made arms were not typically marked or serialized, especially as we understand those requirements today. Because nearly every able-bodied male between 16-60 years of age during the Framing era was required to provide his own arms, and arms were not typically abundant, some built their own arms.[11] There were no restrictions on the manufacture of arms *for personal use* until the twentieth century.[12] The personal manufacture of firearms, instead, historically has been celebrated and unregulated.[13] In 1793, Thomas Jefferson said, "our citizens have always been free to make, vend, and export arms."[14] It remains lawful today in many states, though not in California, to manufacture arms for one's own use with limited restrictions.[15]

The U.S. Supreme Court narrowed the application of the GCAs prohibition on firearms for unlawful users of drugs. (*U.S. v. Hemani* (June 18, 2026 No. 24-1234) 608 U.S.___ [2026

---

[7] *Serialization*, National Rifle Association <https://www.nramuseum.org/media/940941/serialization-date%20of%20manufacture.pdf> [as of June 12, 2026].
[8] *Ibid.*
[9] Greenlee, *The American Tradition of Self-Made Arms* (2023) St. Mary's L.J., at p. 45 <https://commons.stmarytx.edu/cgi/viewcontent.cgi?article=2119&context=thestmaryslawjournal> [as of June 16, 2026] (for ease of reading modern changes were made to the spelling and punctuation from the original source.)
[10] *Id.*, at p. 47.
[11] *Id.*, at p. 62.
[12] *Id.*, at p. 80.
[13] *Ibid.*
[14] *Ibid.*
[15] *Ibid.*

U.S. LEXIS 2559].) While the Court's holding is narrow and the issue in *Hemani* is not relevant to this bill, the Court's application of *Bruen* and *Rahimi* in this case could impact SB 1220. (See *Hemani, supra* [finding the GCAs blanket firearms prohibition for "unlawful users of drugs" unconstitutional because *the historical laws were not relevantly similar*, i.e., ". . . the governments analogy fails under every measure it asks us to consider: The historical laws on which it relies targeted different kinds of people, did so for different reasons, and operated in different ways."].) Evaluating the constitutionality of a firearms regulation like SB 1220 depends in significant parts on exactly what question is being asked and the level of abstraction applied to the analogous historical regulations. Based on the available, relevant case law and some historical data, this bill is at least not clearly unconstitutional.

6) **Argument in Support**: According to the *California Police Chiefs Association*, "SB 1220 makes targeted and necessary updates to Penal Code Section 29805, which governs individuals prohibited from possessing firearms due to prior criminal conduct. By refining and expanding these prohibitions, the bill helps ensure that individuals who have demonstrated behavior posing a risk to public safety are appropriately restricted from accessing firearms.

   "From a law enforcement perspective, firearm prohibition laws are a critical tool in preventing violence before it occurs. Officers across California routinely encounter situations involving individuals with prior convictions who remain in possession of firearms despite existing restrictions. Strengthening and clarifying these prohibitions enhances enforceability, improves compliance, and reduces the likelihood that firearms fall into the hands of individuals who present an elevated risk to the community.

   "SB 1220 also supports consistency and clarity in the law, which is essential for both enforcement and public understanding. Clear statutory standards allow officers, prosecutors, and courts to apply the law effectively, while also ensuring that prohibited individuals are aware of their legal obligations.

   "Ultimately, this measure represents a proactive step toward improving public safety by addressing known risk factors associated with firearm-related violence. By reinforcing existing safeguards and closing potential gaps in the law, SB 1220 will help protect communities and support law enforcement efforts statewide."

7) **Argument in Opposition**: According to the *California Rifle and Pistol Association*, "SB 1220 amends Penal Code Section 29805 to expand the list of misdemeanors that trigger a 10-year prohibition on owning, purchasing, receiving, or possessing firearms. Specifically, it adds violations of subdivision (a) of Section 23920 (altering, removing, or obliterating a firearm's serial number or identifying marks) to the list of disqualifying offenses for convictions on or after January 1, 2027.

   "While CRPA supports keeping firearms out of the hands of truly dangerous individuals, this bill further expands California's already broad prohibited persons regime in a way that risks sweeping in low-level, non-violent, or technical violations without adequate due process protections.

   "**Key Concerns**:

"**Overbreadth and Due Process Issues:** Serial number violations can arise from technical or good-faith situations involving lawfully owned firearms. Imposing a 10-year blanket prohibition on Second Amendment rights for such misdemeanors goes beyond what is necessary for public safety and raises constitutional concerns under the U.S. Supreme Court's Bruen framework.

"**Disproportionate Impact**: The bill adds another layer of lifetime-style restrictions on law-abiding citizens who may have made a one-time mistake, while doing little to address repeat violent offenders who are already prohibited under existing law.

"**Cumulative Effect of Gun Control Laws**: California already maintains one of the strictest prohibited persons frameworks in the nation. Continually expanding the list of disqualifying misdemeanors creates a complex web of restrictions that disproportionately burdens responsible firearm owners and erodes core constitutional rights."

8) **Related Legislation**:

a) SB 948 (Arreguin) would require new California residents to register their firearm(s) with DOJ in addition to securing a Firearm Safety Certificate, which would include four hours of in-person training from a certified instructor. SB 948 is pending hearing in the Assembly Public Safety Committee.

b) AB 1810 (Berman) would place new requirements on firearms dealers in California and subject those dealers with the highest percentage of sales to increased inspections, where the firearm is found as part of criminal activity. AB 1810 is pending hearing in the Senate Public Safety Committee.

c) AB 1948 (Ramos) would extend the concealed carry licensure duration from two years to three years. AB 1948 is pending a vote on the Senate floor.

d) AB 2047 (Bauer-Kahan) would prohibit various conduct with firearms manufacture software as applied to three-dimensional printers and create a misdemeanor for the prohibited conduct. AB 2047 is pending hearing in the Senate Judiciary Committee.

9) **Prior Legislation**:

a) AB 1263 (Gipson), Chapter 636, Statutes of 2025, prohibited a person from knowingly or willfully causing another person to engage in the unlawful manufacture of firearms or knowingly or willfully aiding, abetting, prompting, or facilitating the unlawful manufacture of firearms, including the manufacture of assault weapons or .50 BMG rifles or the manufacture of any firearm using a three-dimensional printer or CNC milling machine, as specified.

b) SB 902 (Roth), Chapter 545, Statutes of 2024, provided that any person convicted of a misdemeanor violation of specified crimes, on or after January 1, 2025, may not, within 10 years of the conviction, access a firearm and would make a violation of that prohibition a misdemeanor.

c) SB 368 (Portantino), Chapter 251, Statutes of 2023, required a licensed firearms dealer, as specified, to accept for storage a firearm transferred by an individual to prevent it from being accessed or used during periods of crisis or heightened risk to the owner of the firearm or members of their household.

d) AB 2239 (Maienschein), Chapter 143, Statutes of 2022, prohibited a person convicted of specified child abuse crimes and elder abuse crimes from possessing a firearm for a period of 10 years after that conviction.

e) SB 701 (Jones), of the 2019-20 Legislative Session, would have made it a misdemeanor for a person with an outstanding warrant to own or possess a firearm or ammunition. SB 701 was vetoed by the Governor.

f) AB 1121 (Bauer-Kahan), of the 2019-2020 Legislative Session, would have prohibited a person who is granted mental health diversion based on a mental health disorder from owning or possessing a firearm, or other dangerous or deadly weapon, as specified. AB 1121 was held in Assembly Appropriations.

g) AB 3129 (Rubio), Chapter 883, Statutes of 2018, prohibited a person who is convicted on or after January 1, 2019, of a misdemeanor violation of willful infliction of corporal injury upon a spouse, cohabitant, or other specified person, from ever possessing a firearm.

h) AB 785 (Jones-Sawyer), Chapter 784, Statutes of 2017, subjected persons to the prohibition on possessing a firearm within 10 years of the conviction who are convicted of, by force or threat of force, interfering with another person's free exercise of any constitutional right or privilege because of the other person's actual or perceived race, religion, national origin, disability, gender, or sexual orientation.

REGISTERED SUPPORT / OPPOSITION:

Support

California Police Chiefs Association (Sponsor)
Los Angeles County District Attorney's Office

Opposition

California Rifle and Pistol Association, INC.

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

Date of Hearing: June 23, 2026
Counsel: Dustin Weber

ASSEMBLY COMMITTEE ON PUBLIC SAFETY
Nick Schultz, Chair

SB 1230 (Valladares) – As Introduced February 19, 2026

SUMMARY: Increases fines for illegal dumping violations and designates the Department of Resources Recycling and Recovery (CalRecycle) as the lead agency to work with localities in combatting illegal dumping. Specifically, **this bill**:

1) Increases the fine for illegal dumping of non-commercial quantities of waste from not less than $500 nor more than $1,500 to not less than $1,500 nor more than $3,000 for the second conviction.

2) Increases the fine for illegal dumping of non-commercial quantities of waste from not less than $750 nor more than $3,000 to not less than $3,000 nor more than $5,000 for the third and any subsequent convictions.

3) Increases the fine for illegal dumping of commercial quantities of waste from not less than $3,000 nor more than $6,000 to not less than $6,000 nor more than $10,000 for the second conviction.

4) Increases the fine for illegal dumping of commercial quantities of waste from not less than $6,000 nor more than $10,000 to not less than $10,000 nor more than $15,000 for the third and any subsequent convictions.

5) Increases the fine for the dumping of commercial quantities of waste by a business that employs more than 10 employees from not less than $3,000 nor more than $10,000 to not less than $6,000 nor more than $10,000 for the second conviction.

6) Increases the fine for the dumping of commercial quantities of waste by a business that employs more than 10 employees from not less than $6,000 nor more than $20,000 to not less than $15,000 nor more than $25,000 for the third and any subsequent convictions.

7) States that CalRecycle shall be the lead state agency to act as a resource for cities and counties to address illegal dumping.

8) Requires CalRecycle to create an internet website with resources to help cities and counties combat, prevent, and clean up illegal dumping.

9) Provides that the CalRecycle internet website may include, but shall not be limited to, educational outreach materials, best practices, enforcement tools, and grant opportunities available to cities and counties.

10) Provides that CalRecycle may collaborate with other state agencies for the internet website.

EXISTING LAW:

1) States that it is unlawful to dump or cause to be dumped waste matter in or upon a public or private highway or road, including any portion of the right-of-way thereof, or in or upon private property into or upon which the public is admitted by easement or license, or upon private property without the consent of the owner, or in or upon a public park or other public property other than property designated for that purpose. (Pen. Code, § 374.3, subd. (a).)

2) Provides it is unlawful to place, deposit, or dump, or cause to be placed, deposited, or dumped, rocks, concrete, asphalt, or dirt in or upon a private highway or road, including any portion of the right-of-way of the private highway or road, or private property, without the consent of the owner or a contractor under contract with the owner for the materials, or in or upon a public park or other public property, without the consent of the state or local agency having jurisdiction over the highway, road, or property. (Pen. Code, § 374.3, subd. (b).)

3) States that a person violating dumping provisions is guilty of an infraction. Each day that waste is placed, deposited, or dumped in violation the law is a separate violation. (Pen. Code, § 374.3, subd. (c).)

4) Provides that illegal dumping prohibitions do not restrict a private owner in the use of his or her own private property, unless the placing, depositing, or dumping of the waste matter on the property creates a public health and safety hazard, a public nuisance, or a fire hazard, as determined by a local health department, local fire department or district providing fire protection services, or the Department of Forestry and Fire Protection, in which case this section applies. (Pen. Code, § 374.3, subd. (d).)

5) Punishes a person convicted of dumping shall by a mandatory fine of not less than $250 nor more than $1,000 upon a first conviction, by a mandatory fine of not less than $500 nor more than $1,500 upon a second conviction, and by a mandatory fine of not less than $750 nor more than $3,000 upon a third or subsequent conviction. If the court finds that the waste matter placed, deposited, or dumped was used tires, the fine prescribed in this subdivision shall be doubled. (Pen. Code, § 374.3, subd. (e).)

6) Provides that the court may require, in addition to any fine imposed upon a conviction, that, as a condition of probation the probationer remove, or pay the cost of removing, any waste matter which the convicted person dumped or caused to be dumped upon public or private property. (Pen. Code, § 374.3, subd. (f).)

7) States that except when the court requires the convicted person to remove waste matter for which he or she is responsible for dumping as a condition of probation, the court may require the probationer to pick up waste matter at a time and place within the jurisdiction of the court for not less than 12 hours. (Pen. Code, § 374.3, subd. (g).)

8) States that a person who illegally dumps waste matter in commercial quantities is guilty of a misdemeanor punishable by imprisonment in a county jail for not more than six months and by a fine. The fine is mandatory and shall amount to not less than $1,000 nor more than $3,000 upon a first conviction, not less than $3,000 nor more than $6,000 upon a second

conviction, and not less than $6,000 nor more than $10,000 upon a third or subsequent conviction. (Pen. Code, § 374.3, subd. (h)(1).)

9) Provides that if the person is the owner or operator of a business involved in the illegal dumping and the business employs more than 10 full-time employees, higher fine ranges apply, increasing to up to $5,000 for a first conviction, $10,000 for a second conviction, and $20,000 for a third or subsequent conviction. (Pen. Code, § 374.3, subd. (h)(2).)

10) Defines "commercial quantities" as an amount of waste matter generated in the course of a trade, business, profession, or occupation, or an amount equal to or in excess of one cubic yard. (Pen. Code, § 374.3, subd. (h)(5).)

FISCAL EFFECT: Unknown

COMMENTS:

1) **Sponsor**: Author-sponsored

2) **Author's Statement**: According to the author, "Illegal dumping is a persistent and costly problem affecting communities throughout California, particularly in rural, desert, and lower-income areas where enforcement resources are most limited. In Senate District 23, residents of the Victor Valley and surrounding high-desert communities have documented hundreds of unauthorized dump sites containing construction debris, household waste, plastics, and other discarded materials. These sites degrade natural habitats, create fire risks, and impose significant financial burdens on local governments that are often already stretched thin.

   "SB 1230 takes two targeted, practical steps to address this ongoing problem. First, it increases fines for repeat illegal dumping offenders under California Penal Code Section 374.3. The non-commercial repeat offender fine ranges and commercial minimum thresholds have not been substantively updated since AB 1802 in 2004. Although AB 2374 in 2022 raised maximum fines for larger businesses, it did not address the fine minimums or non-commercial infraction ranges, leaving those penalty floors unchanged for over two decades and well below the true cost of cleanup and environmental remediation. By raising the penalty thresholds, this bill creates a stronger deterrent for chronic violators, including those dumping in commercial quantities.

   "Second, SB 1230 designates the Department of Resources Recycling and Recovery (CalRecycle) as the lead state agency for supporting cities and counties in combating illegal dumping. It requires CalRecycle to create a publicly accessible website offering enforcement tools, best practices, educational outreach materials, and information on available grant funding. Cities and counties, particularly smaller and rural jurisdictions, currently lack a centralized state resource for this guidance. This bill provides that infrastructure without creating a new state mandate on local governments."

3) **Effect of the Bill**: SB 1230 purports to address illegal dumping by increasing fines on violators. This bill also would make CalRecycle the lead agency for supporting localities in their efforts to stop illegal dumping.

Illegal dumping is the unauthorized disposal of solid waste matter on public or private property. Illegal dumping generates significant social, environmental, and economic costs. Remedying issues stemming from illegal dumping are primarily the responsibility of local governments. Private property owners are impacted, as well.

In recent years, several urban areas have experienced an increase in illegal dumping activity. In Oakland, the amount of illegally dumped trash collected by the city has increased sixfold since 2015.[1] Los Angeles County's illegal dumping cleanup costs grew from $2.3 million in FY 2019-2020 to $6.8 million in FY 2023-2024, a nearly threefold increase.[2] Los Angeles County also projected a 15 percent increase in reported illegal dumping cases from 2023 to 2024, to over 15,800 cases.[3]

Urban areas, however, are not the only ones grappling with illegal dumping issues. There are reports of pervasive dumping in the Antelope Valley.[4] Residents say there are more than 100 dump sites scattered throughout the valley—from Lake Los Angeles to the Antelope Valley California Poppy Reserve and north to the Mojave—that are unauthorized.[5] For example, one site is alleged to contain more than 182,000 tons of debris left over from the processing of construction and demolition material.[6]

Illegal dump sites undermine the quality of life of nearby residents and are environmental and public health hazards. From 2020 to 2024, self-combustible wood chips and organic materials used to camouflage garbage as mulch sparked 42 fires, costing taxpayers more than $1.6 million to extinguish and exposing downwind Antelope Valley residents to toxic smoke, contaminated dust, and airborne particulates.[7] The Bravo fire ignited in 2024, at an 80-acre dump site, cost the LA County Fire Department more than $288,000, took four days to extinguish, and exposed residents to toxic smoke.[8]

Disposing of waste legally is often more costly than illegal dumping, due to the fees charged at waste disposal facilities. Some sources allege that waste haulers choose to pay as little as $4 per ton to dump at an illegal site instead of $60 to $120 per ton at a licensed facility.[9]

---

[1] Karlamangla, *How a City Awash in Garbage is Trying to Take Out the Trash*, N.Y. Times (Oct. 8, 2025) <https://www.nytimes.com/2025/10/08/us/oakland-california-trash-garbage.html> [as of June 11, 2026].
[2] Eng et al., *Major trash haulers accused of illegal dumping at a dozen Southern California sites: Investigation*, Spectrum News 1 (Apr. 3, 2025) <https://spectrumnews1.com/ca/southern-california/public-safety/2025/03/19/illegal-dumping-concerns> [as of June 11, 2026].
[3] *Ibid.*
[4] Margolis, *Diapers, concrete and acres of construction debris—how illegal dumping in the desert got so bad*, LAist (May 19, 2025) <https://laist.com/news/climate-environment/waste-dumping-antelope-valley-high-desert>; Rust, *Antelope Valley residents say they are fed up with rampant dumping, official inaction*, L.A. Times (May 11, 2025) <https://www.latimes.com/science/story/2025-05-11/illegal-dumping-in-antelope-valley> [as June 11, 2026].
[5] Rust, *supra*, at note 4.
[6] Margolis, *supra*, at note 4.
[7] Schwebke, *Antelope Valley residents waging battle against massive illegal dumping campaign*, L.A. Daily News (Aug. 17, 2025) <https://www.dailynews.com/2025/08/17/antelope-valley-residents-waging-battle-against-massive-illegal-dumping/> [as June 11, 2026].
[8] *Ibid.*
[9] *Ibid.*

With such incentives, local enforcement action may sometimes be insufficient to deter illegal dumping by repeat bad actors.[10]

Another bill this year aimed to increase penalties for certain illegal dumping violators. AB 2310 (Carrillo), which would also increase penalties for illegal dumping violations, was passed out of the Assembly Public Safety Committee earlier this year. SB 1220 would amend illegal dumping laws in similar, though distinguishable ways from AB 2310. While AB 2310 focuses on increasing penalties for repeat offenders and more serious commercial offenders, SB 1220 largely increases financial penalties across the board, excepting a first offense for an individual. SB 1220's maximum penalties do not exceed those maximum penalties permitted by AB 2310 in terms of dollar amounts, however, unlike AB 2310, SB 1220 mostly would authorize higher fines for first, second, and third offenses. AB 2310 authorizes a greater cumulative penalty for individuals than SB 1220 but only upon a fourth offense. Greater cumulative penalties are additionally authorized by AB 2310 specifically for large-scale commercial violators, as well. AB 2310, however, does not authorize stacking penalties against individuals for a single act of dumping based on the days the illegally dumped waste goes undiscovered, while that provision remains in SB 1220. Ultimately, both AB 2310 and SB 1220 increase penalties for illegal dumping violators, however, AB 2310 seems targeted at specific offenders while SB 1220 appears directed at nearly all offenders.

4) **Intersection with Existing Law**: SB 1230 would increase fines for various acts of illegal dumping. While increased fines may be justified in some cases, there are potential concerns.

   For example, each day that waste is left at a dumped location is a separate violation. (Pen. Code, § 374.3, subd. (c).) So, under this bill, if someone dumps waste and leaves it for three days, on the third day they would be immediately subject to the maximum fine for a single act of non-commercial dumping. This may create perverse incentives for enforcement authorities, who could collect higher fees the longer they wait to bring an enforcement action against an offender.

   This intersection raises practical and legal concerns regarding fairness and the prohibition against excessive fines. (U.S. Const., 8th Amend.) The combination of new and existing laws quickly could subject a person to exorbitant fines. For example, someone who dumps a non-commercial amount of waste, such as a small piece of furniture or sleeping bag left out on the sidewalk, could accrue fines totaling $9,000 the third day after the item is dumped. This is before any additional assessments.

5) **Deterrence:** SB 1230 would increase the fines available generally for illegal dumping. It is unclear whether increasing penalties has a deterrent effect. There is reliable evidence showing increased penalties generally fail to deter criminal behavior.[11] Data shows greater deterrent effects as the likelihood of being caught and the perception that one will get caught

---

[10]Margolis, *supra*, at note 4.
[11] National Institute of Justice, *Five Things About Deterrence* (May 2016) <https://www.ojp.gov/pdffiles1/nij/247350.pdf> [as of May 29, 2026].

rises.[12] In contrast, the act of punishment and the length of punishment largely do not increase deterrence.[13]

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.[14]

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,[15] it remains questionable whether increasing fines, as this bill does, would produce the desired impact.

6) **Argument in Support**: According to the *Alameda County Board of Supervisors*, "Illegal dumping is not simply a local inconvenience. It creates serious environmental hazards, fire risks, and public health concerns, while draining already limited public resources. Dumped waste contributes to neighborhood blight, attracts additional illegal activity, creates unsafe and unsanitary conditions, and places a significant financial burden on local governments responsible for cleanup and enforcement. These impacts are often felt most heavily in underserved communities, where illegal dumping undermines broader efforts to improve neighborhood safety, accessibility, and environmental justice.

"For years, Alameda County and stakeholders have worked to address this issue through a best-practice framework known as the Three E's: Education, Eradication, and Enforcement.

---

[12] *Ibid.*
[13] *Ibid.*
[14] Legis. Analyst, Overview of Criminal Fine and Fee System (May 13, 2021) <https://lao.ca.gov/Publications/Detail/4427> [as of May 29, 2026].
[15] 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].

This approach focuses on preventing illegal dumping before it happens, removing waste quickly when it does occur, and ensuring there are real consequences for those who violate the law. While progress has been made, current penalties remain outdated and too low to serve as an effective deterrent. In many cases, it is simply cheaper for bad actors to dump illegally than to dispose of waste properly. As a result, enforcement becomes more difficult, and prosecutors often deprioritize these cases given limited resources and minimal consequences.

"SB 1230 takes a practical and targeted approach to addressing this problem. The bill increases fines for repeat violations of illegal dumping laws, including stronger penalties for the dumping of commercial quantities of waste and for businesses with more than 10 employees that repeatedly violate these laws. These increased penalties create meaningful accountability and strengthen the enforcement component of the Three E's framework. 1

"In addition to stronger penalties, SB 1230 would designate the Department of Resources Recycling and Recovery (CalRecycle) as the lead state agency to serve as a resource for cities and counties addressing illegal dumping. The bill also requires the creation of an online resource hub to provide local governments with tools, guidance, and best practices for prevention, cleanup, and enforcement efforts. This coordinated statewide approach will strengthen local capacity and improve consistency in how jurisdictions respond to illegal dumping challenges across California."

7) **Argument in Opposition**: According to *Debt Free Justice California*, "we write to respectfully oppose SB 1230. DFJC is a statewide coalition focused on ending the ways in which the criminal legal system extracts wealth and resources from people and communities.

"Despite extensive research concluding that increasing the severity of punishment does little to deter crime while posing significant costs to California, and that fines are linked to higher recidivism rates, SB 1230 misguidedly increases incarceration and financial liability for individuals convicted of illegal dumping.

"SB 1230 will aggravate cycles of poverty for vulnerable Californians at a time when affordability and economic security are top priorities for constituents.

"SB 1230 exponentially increases the fines associated with illegal dumping. Of particular concern is the fine increase for dumping "commercial quantities" of waste for repeat offenses. "Commercial quantities" is defined in statute as "an amount of waste matter generated in the course of a trade, business, profession, or occupation, or an amount equal to or in excess of one cubic yard." One cubic yard is roughly the size of a standard washing machine – in fact, quite small.

"Assessing a fine on a person convicted of illegal dumping is particularly cruel given that over 80 percent of the people in the criminal legal system were poor before they entered it. If they are incarcerated, they will lose many of their possessions and assets and if they work while incarcerated, they will earn pennies per hour. Once they exit, people with prior convictions face significant barriers to employment. Studies have found that criminal legal system debt compounds precarious finances and limits social mobility. These negative outcomes only make reentry harder. An analysis by researchers at U.C. Berkeley found criminal court debt can cause families to spend less on positive social goods, such as

education and preventative healthcare, which imposes long-term costs on families, communities, and society by prolonging and exacerbating poverty.

"Further, fines, like the fines included in SB 1230, are an ineffective and costly source of revenue. Counties net little to no revenue from fines. For example, from 2021 through 2024, the City of Oakland issued almost 3,000 illegal dumping citations, totaling $1.3 million in fines, but collected only $109,000 or 11%. Because of the high costs and low returns associated with trying to collect fines from low-income people, most of the revenue pays for administrative costs and collection activities.

"Instead, we urge the Legislature to invest into measures to prevent illegal dumping from occurring in the first place. Contra Costa County has published 22 preventative measures that the County is implementing in various phases – none of these prevention measures include increased criminal penalties. Instead, the County is planning on contracting with waste companies that offer bulk waste pick ups to residents, requiring certain businesses to accept products at the end of the product life, funding additional electronic waste options, launching free disposal days, establishing disposal vouchers in lieu of on-call bulk waste disposal, creating local disposal options for treated wood, creating disposal options for recreational vehicles, offering free mattress and boxspring recycling sites, and educating the public about these options. The Legislature can solve the issue of illegal dumping through target investments in the most affected communities.

"For these reasons, we are opposed to SB 1230 unless it is amended to specify that only commercial entities, and not individuals, may be charged with illegal dumping of commercial quantities of waste."

8) **Related Legislation**: AB 2310 (Carrillo) would increase fines and penalties for defined acts of illegal dumping. AB 2310 is pending hearing in the Senate Public Safety Committee.

9) **Prior Legislation**:

   a) SB 1359 (Wilk), of the 2023-2024 Legislative Session, would have prohibited the dumping of waste matter and other specified materials on private property even with the owner's consent if a permit or license was required and not obtained. The hearing on SB 1359 in this committee was canceled at the request of the author.

   b) AB 2374 (Bauer-Kahan), Chapter 784, Statutes of 2022, increased the maximum fine for the dumping of commercial quantities of waste by a business that employs more than 10 employees from $3,000 to $5,000 for the first conviction, from $6,000 to $10,000 for the second conviction, and from $10,000 to $20,000 for the third and any subsequent convictions.

   c) AB 215 (Mathis), 2019-2020 Legislative Session, would have made a fourth violation of illegal dumping on private property a misdemeanor punishable by up to 30 days in the county jail created a fine of not less than $750 nor more than $3,000. AB 215 was held in the Assembly Appropriations Committee.

   d) AB 1216 (Bauer-Kahan), 2019-2020 Legislative Session, would have created a pilot program to employ a single law enforcement officer in both Alameda and Contra Costa

counties to enforce laws prohibiting dumping. AB 1216 was held in the Assembly Appropriations Committee.

e) SB 409 (Wilk), 2019-2020 Legislative Session, would have increased the fines for dumping of waste in non-commercial quantities and made it a crime to transport and dump waste. SB 409 was held in the Assembly Appropriations Committee.

f) AB 144 (Mathis), 2015-2016 Legislative Session, would have made a fourth violation of illegal dumping on private property a misdemeanor punishable by up to 30 days in the county jail. AB 144 was vetoed by the Governor.

g) AB 1992 (Canciamilla), Chapter 416, Statutes of 2006, imposed graduated penalties and increased fines for second and third violations of illegal dumping offenses.

REGISTERED SUPPORT / OPPOSITION:

Support

California Association of Highway Patrolmen
California Chapters of the Solid Waste Association of North America's Legislative Task Force
City of Hesperia
County of Alameda
Rural County Representatives of California (RCRC)
Shasta County Board of Supervisors

Oppose

ACLU California Action
All of US or None (HQ)
California Public Defenders Association
Debt Free Justice California
Indivisible CA Statestrong
Legal Services for Prisoners With Children

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

Date of Hearing: June 23, 2026
Counsel: Ilan Zur

ASSEMBLY COMMITTEE ON PUBLIC SAFETY
Nick Schultz, Chair

SB 1257 (Arreguín) – As Amended April 16, 2026

SUMMARY: Requires the Attorney General (AG) to annually submit to the Legislature, and post on its website, a report summarizing all immigration enforcement incidents and activities conducted by a person at a designated safe location that have been reported to the AG, as specified. Specifically, **this bill**:

1) Requires, on or before October 30, 2027, and annually thereafter, the AG to submit to the Legislature, and post on its internet website, a report that includes all of the following:

   a) A summary of all immigration enforcement incidents and activities conducted by a person at a designated safe location that have been reported by the designated safe location or a person who witnessed the activity to the AG, including, but not limited to, reports submitted onsite or through the AG's federal agent misconduct online portal.

   b) Information of each immigration enforcement incident and activity described above, including, but not limited to, the date of occurrence, the county of occurrence, the type of facility or location impacted, the government agency involved, and follow-up or resolution status.

   c) The number of immigration enforcement incidents and activities described above that resulted in legal action regarding the incident or activity's legality and the county or court in which the legal action was filed. Legal action does not include a legal action or administrative proceeding against an individual for the enforcement of federal immigration law or a prosecution of an individual under federal criminal law.

2) Authorizes the AG to request representatives of a designated safe location to furnish reported immigration enforcement incidents and activities as part of compiling its annual report.

3) Authorizes the AG to issue civil penalties or conduct other enforcement activity to ensure compliance with this bill

4) Authorizes, as part of compiling this report, the AG to consider whether a designated safe location is in compliance with other state laws related to immigration enforcement and authorizes the AG to take enforcement action to enforce those laws, as needed.

5) Prohibits a report required by this bill and any information therein from including personally identifiable information regarding an individual stopped, detained, or arrested by an individual conducting an immigration enforcement incident or activity.

6) Defines the following terms:

a) A "designated safe location" means educational institutions, health care provider entities, as defined, shelters, polling places, courthouses, public transportation property, and state and local government property.

b) "Immigration enforcement" means any effort to investigate, enforce, or assist in the investigation or enforcement of a federal civil immigration law or a federal criminal immigration law that penalizes a person's presence in, entry or reentry to, or employment in the United States.

EXISTING LAW:

1) Establishes the California Values Act, which prohibits law enforcement agencies (LEAs) from using agency or department money or personnel to investigate, interrogate, detain, detect, or arrest persons for immigration enforcement purposes, subject to specified exemptions. (Gov. Code, §§ 7282.5, 7284.6.)

2) Requires an LEA that participates in a joint law enforcement task force to annually report to the Department of Justice (DOJ) the purpose of the task force, the agencies involved, the number of arrests made during the reporting period, and the number of people arrested for immigration enforcement purposes. (Gov. Code, § 7284.6, subd. (c)(1).)

3) Requires LEAs to annually report to the DOJ the number of transfers of an individual to immigration authorities and the offense that allowed for the transfer, as specified. (Gov. Code, § 7284.6, subd. (c)(2).)

4) Requires the AG to annually report on the total number of arrests made by joint law enforcement task forces, and the total number of arrests made for immigration enforcement by all task force participants, including federal law enforcement agencies, and to post the report on the AG's website. (Gov. Code, § 7284.6, subd. (d).)

5) Requires the AG to publish model policies limiting assistance with immigration enforcement to the fullest extent possible consistent with federal and state law at public schools, public libraries, health facilities, courthouses, Division of Labor Standards Enforcement facilities, the Agricultural Labor Relations Board, the Division of Workers Compensation, and shelters, and ensuring that they remain safe and accessible to all California residents, regardless of immigration status. (Gov. Code, § 7284.8, subd. (a).)

6) Requires the AG to publish model policies limiting assistance with immigration enforcement at licensed child daycare facilities to the fullest extent possible, as specified, and consider, when developing the policy, procedures for employees to notify the licensee or administrator of the facility if an individual requests or gains access to facility grounds for immigration enforcement. (Health & Saf. Code, § 1597.640, subd. (f)(1).)

7) Requires the licensee or administrator of a licensed child daycare facility to report to the AG any requests for information or access to the facility by an officer of a law enforcement agency for immigration enforcement, and permits a license-exempt California state preschool program to do the same. (Health & Saf. Code, § 1597.640, subd. (b)(1).)

8) Requires health care provider entity personnel to notify health care provider entity management, administration, or counsel of a request for access to a provider entity site or patient for immigration enforcement. (Health & Saf. Code, § 24250, subd. (b)(1).)

9) Prohibits, unless required by state or federal law, a health care provider entity and its personnel from allowing any person access to the nonpublic areas of the facility for immigration enforcement, except as specified. (Health & Saf. Code, § 24251, subd. (b).)

10) Requires health care provider entities to inform staff and relevant volunteers on how to respond to requests relating to immigration enforcement that grant access to health care provider entity sites or to patients. (Health & Saf. Code, § 24251, subd. (d).)

11) Prohibits, except as required by state or federal law or as required to administer a state or federally supported educational program, school officials and employees of a local agency from allowing an officer of an agency conducting immigration enforcement to enter a nonpublic area of a school, except as specified. (Ed. Code, § 234.7, subd. (a)(2).)

12) Prohibits a local educational agency and its personnel, to the extent practicable, from disclosing information about a pupil or a pupil's family and household without the pupil's parents' or guardians' written consent, a school employee, or a teacher, to an officer of an agency conducting immigration enforcement absent a judicial warrant or subpoena, or court order directing the agency or its personnel to do so. (Ed. Code, § 234.7, subd. (b).)

13) Requires the superintendent of a school district or county office of education, and the principal of a charter school, to report to the governing board or body of the local educational agency any requests for information or access to a school site by an officer of a law enforcement agency for immigration enforcement. (Ed. Code, § 234.7, subd. (c).)

14) Requires the AG to publish model policies limiting assistance with immigration enforcement at public schools, consistent with federal and state law, and ensuring that public schools remain safe and accessible to all California residents, regardless of immigration status. (Ed. Code, § 234.7, subd. (g)(1).)

15) States that it is the intent of the Legislature that all California public schools develop a comprehensive school safety plan, and requires, by March 1, 2026, that the plan include procedures to notify parents and guardians of pupils, teachers, administrators, and school personnel when the school confirms the presence of immigration enforcement on the school site. (Ed. Code, §§ 32280; 32282, subd. (a)(2)(N)(i).)

16) Requires (or requests in the case of the University of California) specified higher education institutions to take certain actions related to immigration enforcement on their campuses, including: 1) advising students, faculty, and staff to notify the office of the chancellor or president if they are advised that an immigration officer has entered campus to execute a federal immigration order; 2) complying with a request from an immigration officer for access to nonpublic areas of the campus only upon presentation of a judicial warrant; 3) adopting the model policy developed by the AG limiting assistance with immigration enforcement to the fullest extent possible consistent with federal law, among other prohibitions; 4) requiring, in the event an undocumented student is subject to a federal immigration order, that all students, faculty, staff, and campus community members are

notified when the presence of immigration enforcement is confirmed on campus; and 5) requiring each higher education campus to notify all students, faculty, staff, and other campus community members when the presence of immigration enforcement is confirmed on campus, including providing notice of the date and time the immigration enforcement was confirmed, the location of the immigration enforcement, and a hyperlink to additional resources. (Ed. Code, § 66093.3, subds. (a) & (b).)

FISCAL EFFECT: Unknown.

COMMENTS:

1) **Sponsor**: Latino Coalition for a Healthy California

2) **Author's Statement**: According to the author, "California is recognized for its commitment to human rights and is home to nearly 11 million immigrants. However, the state has seen a marked rise in unjust immigration enforcement. Between January and October 2025, ICE made over 18,000 arrests in California. Recently, ICE actions have impacted communities nationwide, regardless of legal status, and in some cases, resulted in the loss of U.S. citizens' lives. Many California immigrant communities now fear for their safety when leaving their homes.

   "This increase in fear leads to skipped medical appointments, school absences, and avoiding public areas, resulting in a low quality of life. This is why accountability and transparency are needed regarding ICE activity in and across our state. This bill ensures that designated health locations entities are reporting ICE activity, and that Californians are aware of actions taken to hold entities accountable."

3) **Rescission of the DHS Sensitive Locations Memo:** The Department of Homeland Security (DHS) previously had standing guidance prohibiting immigration authorities from conducting enforcement actions in certain "sensitive locations," including schools, hospitals, and churches, unless exigent circumstances existed, prior approval was obtained, or other law enforcement actions had led officers to a sensitive location, as specified.[1] In 2021, the Biden Administration issued a memo expanding these sensitive places to include, as pertains to this bill, social service establishments, such as a crisis center, domestic violence shelter, victims services center, child advocacy center, supervised visitation center, family justice center, community-based organization, facility that serves disabled persons, homeless shelter, drug or alcohol counseling and treatment facility, or food bank or pantry or other establishment distributing food or other essentials of life to people in need.[2] In justifying the directive, the memo stated the "need to consider the fact that an enforcement action taken near – and not necessarily in—the protected area can have the same restraining impact on an individual's access to the protected area itself."[3]

---

[1] U.S. Immigration and Customs Enforcement, Memorandum: Enforcement Actions at or Focused on Sensitive Locations (Oct. 24, 2011) <https://www.ice.gov/doclib/ero-outreach/pdf/10029.2-policy.pdf> [as of June 10, 2026].
[2] *Id.* at p. 45.
[3] *Ibid.*

On January 21, 2025, acting DHS Secretary Benjamin Huffman rescinded the Biden directive, stating that it "thwart[ed] law enforcement in or near so-called 'sensitive' areas."[4] On January 31, 2025, DHS issued a new directive stating they were "not issuing rules regarding where immigration laws are permitted to be enforced. Instead… the ICE Director charges Assistant Field Office Directors and Assistant Special Agents in Charge with responsibility for making case-by-case determinations regarding whether, where, and when to conduct an immigration enforcement action in or near a protected area."[5] In March, ICE reverted to the 2021 policy, but only in relation to places of worship. (*Ibid.*)

4) **Protections for Sensitive Locations under California Law:** Certain locations in California are subject to heightened protections against immigration enforcement activity. In 2017, the California Values Act required the AG to publish model policies limiting assistance with immigration enforcement to the fullest extent possible consistent with federal and state law at certain locations, including public schools, public libraries, health facilities, courthouses, and shelters, among other locations, and ensuring that they remain safe and accessible to all California residents, regardless of immigration status. (Gov. Code, § 7284.8, subd. (a).) Numerous laws have been enacted since then that restrict the degree to which employees of certain sensitive locations can cooperate with immigration enforcement operations and require such locations to monitor and disclose when such immigration enforcement incidents occur.

   For licensed child daycare facilities, the AG is required to adopt policies limiting assistance with immigration enforcement at such facilities. (Health & Saf. Code, § 1597.640, subd. (f)(1).) Licensees or administrators of such facilities are required to report to the AG any requests for information or access to the facility by a law enforcement agency for immigration enforcement purposes. (Health & Saf. Code, § 1597.640, subd. (b)(1).) Similar provisions exist for health care provider entities. Health care provider entities are prohibited from allowing access to a nonpublic area of the facility, except as specified, and health care provider personnel are required to notify the provider entity management, administration, or counsel of any request for access to a site or patient for immigration enforcement. (Health & Saf. Code, § 24250, subd. (b)(1); 24251, subd. (b).) Comparable requirements exist for schools and higher education institutions. (See, e.g., Ed. Code, §§ 234.7, subds. (a)(2) & (g)(1); 234.7, subd. (c); 32280.)

   Immigration activity can also be directly reported to the AG. The AG operates a federal agent misconduct portal that permits members of the public to report potentially unlawful activity by federal agents in California.[6] A person submitting a report must identify the nature of the incident, whether the reporting person was physically present, a description of what happened, whether injury occurred, the location, whether legal action was filed, whether law enforcement was present, and whether a police report was filed, and the portal provides an option for photos or videos to be submitted.[7]

---

[4] U.S. Dept. of Homeland Security, Statement from a DHS Spokesperson on Directives Expanding Law Enforcement and Ending the Abuse of Humanitarian Parol (Jan. 21, 2025) <available at: https://www.dhs.gov/news/2025/01/21/statement-dhs-spokesperson-directives-expanding-law-enforcement-and-ending-abuse> [as of June 10, 2026].
[5] U.S. Dept. of Homeland Security, ICE Directive Common Sense Enforcement Actions in or Near Protected Area (January 31, 2025) <https://www.ice.gov/about-ice/ero/protected-areas> [as of June 10, 2026].
[6] Cal. Dept. of Justice, Report Misconduct by Federal Agents to the California Attorney General <https://oag.ca.gov/reportmisconduct> [as of June 11, 2026].
[7] *Ibid.*

5) **Effect of this Bill:** This bill requires the AG, by October 30, 2027, to submit to the Legislature, and post on its website, a specified report about immigration enforcement incidents and activities that occurred at "designated safe locations" in California. A designated safe location is broadly defined to include specific entities, such as an educational institution, health care provider entity, shelter, polling place, or courthouse, but also public property more generally, such as public transportation property, and state and local government property.

   The AG report must contain three categories of information. First, it must summarize all immigration enforcement incidents and activities that were conducted by a person at a designated safe location that have been reported to the AG either by the designated safe location or a person who witnessed the activity. This can include a report submitted onsite or through the AG's federal agent misconduct online portal. Second, it must include specific information relating to each immigration enforcement incident and activity, including the date of occurrence, the county of occurrence, the type of facility or location impacted, the government agency involved, and follow-up or resolution status. Third, it must include the number of immigration enforcement incidents and activities that resulted in legal action regarding the incident or activity's legality and the county or court in which the legal action was filed. This does not include legal action or administrative proceeding against an individual for the enforcement of federal immigration law or a prosecution of an individual under federal criminal law. Personally identifiable information of an individual stopped, detained, or arrested during an immigration enforcement incident or activity may not be included in the report.

   In order to collect the information required for the report, the bill authorizes the AG to request that representatives of a designated safe location provide reported immigration enforcement incidents and activities to the AG. To enforce the provisions of the bill, it authorizes the AG to issue civil penalties or conduct other enforcement activity to ensure compliance with this bill. The AG may also, in compiling this report, consider if a designated safe location is in compliance with other state laws related to immigration enforcement, and take enforcement action to enforce those laws. The bill defines immigration enforcement" as an effort to investigate, enforce, or assist in the investigation or enforcement of a federal civil immigration law or a federal criminal immigration law that penalizes a person's presence in, entry or reentry to, or employment in the United States. This definition is largely consistent with the definition of immigration enforcement established in the California Values Act. (Gov. Code, § 7284.4, subd. (f).)

6) **Practical Considerations:** The author may wish to consider clarifying how immigration enforcement incident information will be collected at designated safe locations and how this information will be reported to the AG.

   The annual AG report required by this bill must include "[a] summary of all immigration enforcement incidents and activities conducted by a person at a designated safe location that have been reported by the designated safe location or a person who witnessed the activity to the Attorney General." As currently drafted, the contents of the AG report appear somewhat dependent on discretionary reporting to the DOJ. There is no requirement that the designated safe locations track the detailed information that must be included in this AG report or that they report this information to the AG. While some of the entities covered by this bill, such

as health care providers, schools, and higher education institutions, are independently required to monitor immigration enforcement actions to a certain degree, they may not collect the type of information this bill requires. (Health & Saf. Code, § 24250, subd. (b)(1); Ed. Code, § 234.7, subd. (c); Ed. Code, § 66093.3, subds. (a)-(b).) Other entities encompassed by this bill, such as shelters, polling places, courthouses, or certain types of property such as public transportation property, state governmental property, and local governmental property, may even have more limited access to this information. It may be difficult for AG to include all of this information in its annual reporting if a report submitted to the AG on the front end contains little to none of the necessary information.

The bill includes an enforcement mechanism by authorizing the AG to request representatives of a designated safe location to furnish any reported immigration enforcement incidents while compiling its report, and to issue civil penalties or conduct other enforcement activity to ensure compliance with this bill. While this may assist in securing additional information about immigration enforcement incidents, it may be difficult to get this information if designated safe locations are not required to collect, and do not have access to, the type of detailed incident information that the AG is requesting.

Further, while the AG is authorized to request such information, the bill does not require that the entities respond or comply with such requests. Civil penalties or other enforcement activity may not be prudent if a designated safe location does not have the applicable immigration enforcement incident information and is not required to provide such information. The author may wish to clarify the responsibilities of a designated safe location upon receiving such a request.

Finally, for immigration incidents occurring on property, such as public transportation, state, or local governmental property, rather than at a particular entity, it is unclear which "representative" or person" would be responsible for receiving and responding to such a request. To improve the feasibility of the bill it may be prudent to remove "public transportation property, and state and local government property" from the definition of a "designated safe location."

7) **The California Values Act:** In 2017, California enacted the California Values Act, which limits the involvement of state and local law enforcement agencies in federal immigration enforcement. The Values Act prohibits law enforcement agencies from using resources to investigate, interrogate, detain, detect, or arrest people for immigration enforcement purposes; however, it permits LEAs to cooperate with immigration authorities to the extent such cooperation would not violate federal, state, or local law. (Gov. Code, § 7282.5.) Additionally, law enforcement agencies have discretion to transfer an individual to immigration authorities or provide ICE with information about an in-custody individual's release date for individuals arrested or convicted for certain crimes. (Gov. Code, § 7282.5, subds. (a) (1) & (2), (b).)

The Values Act was challenged by the federal government as obstructing the enforcement of federal immigration law and violating the doctrine of intergovernmental immunity. (*United States v. California* (2019) 921 F.3d 865, 886, 891.) Ultimately, in *United States v. California*, the Ninth Circuit Court of Appeals upheld the provisions of the California Values Act relating to law enforcement cooperation with ICE. The court of appeals had "no doubt that SB 54 makes the jobs of federal immigration authorities more difficult." (*Id.* at p. 886.)

But the court concluded that this does not constitute obstacle preemption, because federal law "does not require any particular action on the part of California or its political subdivisions." (*Id.* at p. 889.) "Even if SB 54 obstructs federal immigration enforcement," the court stated, "the United States' position that such obstruction is unlawful runs directly afoul of the Tenth Amendment and the anticommandeering rule." (*Id.* at p. 888.) "California has the right, pursuant to the anticommandeering rule, to refrain from assisting with federal efforts." (*Id.* at p. 891.) The court concluded that SB 54 does not violate the United States' intergovernmental immunity for similar reasons. (*Ibid.*)

This bill establishes a new statutory section, proposed Government Code section 7284.9, that falls squarely within the chapter of law known as the "California Values Act." The Legislature has not added a new section to the California Values Act since its enactment, in part due to the legal sensitivity associated with the critical legislation. To avoid errantly involving the Values Act in possible litigation, the author may wish to move the provisions of this bill into a different chapter of law.

8) **Application to Immigration Enforcement Activities Involving California Law Enforcement Officers:** The information required to be included in the AG report pursuant to this bill may encompass certain immigration enforcement activity conducted by California law enforcement agencies. This is because California state and local law enforcement agencies are permitted to assist with immigration enforcement efforts in certain ways. As previously noted, the Values Act permits LEAs to cooperate with immigration authorities to the extent such cooperation would not violate federal, state, or local law. (Gov. Code, § 7282.5.) Most notably, LEAs have discretion to transfer an individual to immigration authorities or provide ICE with information about an in-custody individual's release date for individuals arrested or convicted of certain crimes. (Gov. Code, § 7282.5, subds. (a) (1) & (2), (b).) Further, the definition of an LEA under the Values Act does not include the Department of Corrections and Rehabilitation. (Gov. Code, § 7284.4, subd. (a).)

The California Values Act already requires law enforcement agencies to annually report to the DOJ the number of transfers of an individual to immigration authorities and the offense that allowed for the transfer, as specified. (Gov. Code, § 7284.6, subd. (c)(2).) These records are subject to disclosure under the California Public Records Act (CPRA), and, as permitted under the CPRA, personal identifying information may be redacted prior to public disclosure. (Gov. Code, § 7284.6, subd. (c)(3).)

The AG report required by this bill could be interpreted to encompass lawful immigration enforcement incidents or activities conducted by state and local law enforcement agencies. Certain state or local peace officer immigration enforcement activity, such as a California peace officer-facilitated transfer to ICE, may take place on a "designated safe location," such as public transportation property, state government property, or local government property. For example, if a local police officer transports an undocumented individual to immigration authorities because they were convicted of a specified crime, as permitted under the Values Act, and this immigration enforcement action takes place on local government property, the details of this incident, if reported to the AG, would be required to be included in the AG's annual report. Given that local and state LEAs are permitted to assist ICE with immigration enforcement efforts in narrow ways, particularly when it comes to individuals who have committed certain crimes, this bill may expand the AG's reporting obligations regarding the

degree to which California law enforcement agencies assist in immigration enforcement under the California Values Act.

9) **Argument in Support**: According to *The Latino Coalition for a Healthy California*, SB 1257 "will require the California Attorney General to publish an annual public report on all immigration incidents and activities by federal agencies…

"From January to October 2025, over 18,000 ICE arrests occurred in the state. This increase in activity requires a constant commitment to maintain accountability for all individuals and entities found in unlawful immigration-related activities. It is a fundamental responsibility of the Attorney General to ensure that those who participate in these activities are held accountable through appropriate legal measures.

"The lack of accountability and transparency from the state allows ICE enforcement to continue to commit violations and stoke fear within California. This increase in fear can lead Californians to skip medical appointments, not attend school, and avoid public areas. As a result, this leads to a low quality of life.

"Although the state is collecting information on misconduct by a federal agency for the California Attorney General, the data needs to be made public, and violators need to be held accountable. The state's current lack of accountability and transparency regarding the number and locations of violations. This undermines public trust and will lead to a lack of confidence in the community to report future violations.

"A public report on ICE activity, including unlawful enforcement, is key to accountability and transparency for the safety of all Californians. SB1257 will require the Attorney General to publish an annual report on immigration incidents and activities that happen in California. Finally, the Attorney General is authorized to ensure compliance through penalties or other enforcement activities."

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

11) **Prior Legislation**:

a) SB 81 (Arreguín), Chapter 123, Statutes of 2025, prohibited a health care provider entity and its personnel, unless required by state and federal law, from granting access to the nonpublic areas of the facility for immigration enforcement without a valid judicial warrant or court order.

b) AB 49 (Muratsuchi), Chapter 122, Statutes of 2025, prohibited, except as required by state or federal law, school officials and employees of a local educational agency (LEA) from allowing an officer or employee of an agency conducting immigration enforcement to enter a school site without providing a valid judicial warrant or court order.

c) SB 98 (Pérez), Chapter 124, Statutes of 2025, required the governing boards of school districts and county offices of education, and the governing boards of charter schools, to include procedures for notifying parents and school staff when immigration enforcement is confirmed on the school site within the school safety plan.

d) SB 841 (Rubio), of the 2025-2026 Legislative Session, would have prohibited an employee of a homeless shelter, rape crisis center, domestic violence shelter, family justice center, or human trafficking service provider from allowing immigration enforcement activity in the nonpublic areas of the facility without a valid warrant or court order. SB 841 was ordered to the inactive file at the request of the Assembly Majority Leader.

e) AB 699 (O'Donnell), Chapter 493, Statutes of 2017, required the AG to publish model policies limiting assistance with immigration enforcement at public schools, requires local educational agencies to adopt the model policies or equivalent policies, and provides education and support to immigrant students and their families.

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

REGISTERED SUPPORT / OPPOSITION:

Support

Latino Coalition for a Healthy California (Sponsor)
Access Reproductive Justice
ACLU California Action
Alliance for a Better Community (UNREG)
Asian Americans for Community Involvement
Asian Resources, INC.
Asociacion De Migrantes Guatemaltecos Los Angeles
Berkeley; City of
Buen Vecino
California Community Foundation
California Consortium for Urban Indian Health
California Coverage Health Initiatives (CCHI)
California Federation of Labor Unions, Afl-cio
California Immigrant Policy Center
California Lgbtq Health and Human Services Network
California Pan - Ethnic Health Network
California Physicians Alliance
California Public Defenders Association
California Teachers Association
Campaign for College Opportunity
Celestria Health
Central American Resource Center of California (CARECEN-LA)
Centro Binacional Para El Desarrollo Indigena Oaxaqueño (CBDIO)
Centro Binacional Para El Desarrollo Indígena Oaxaqueno
Coalition of California Welfare Rights Organizations
Coalition of Orange County Community Health Centers
Community Health Partnership
Courage California
El Arc De California
Emeryville; City of

Empowering Marginalized Asian Communities
Empowering Pacific Islander Communities (EPIC) Fiscally Sponsored by Community Partners
Farm2people
Friends Committee on Legislation of California
Health4kern
Healthy Contra Costa
Immigrant Defenders Law Center
Jwch Institute
Lideres Campesinas
Multicultural Institute
Oakland; City of
Oasis Legal Services
Orale: Organizing Rooted in Abolition Liberation and Empowerment
Rubicon Programs
San Francisco Aids Foundation
Santa Cruz Community Health
Seiu California
Soledad; City of
South Asian Network
Southeast Asia Resource Action Center
Southeast Asia Resource Action Center (SEARAC)
Thai Community Development Center
The Black Alliance for Just Immigration
The Children's Partnership
The Los Angeles Trust for Children's Health
Todec Legal Center
Transitions Clinic Network
Unidosus
Vision Y Compromiso (UNREG)
Western Center on Law & Poverty, INC.
2 private individuals

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

Date of Hearing: June 23, 2026
Counsel: Mary Kennedy

ASSEMBLY COMMITTEE ON PUBLIC SAFETY
Nick Schultz, Chair

SB 1266 (Stern) – As Amended May 18, 2026

PULLED BY THE AUTHOR

Analysis Prepared by: Mary Kennedy / PUB. S. / (916) 319-3744

Date of Hearing: June 23, 2026
Counsel: Kimberly Horiuchi

ASSEMBLY COMMITTEE ON PUBLIC SAFETY
Nick Schultz, Chair

SB 1276 (Rubio) – As Introduced February 20, 2026

SUMMARY: Expands the crime of sexual exploitation of a child to include downloading, streaming, or accessing through electronic or digital media specified depictions of a minor engaged in an act of sexual conduct. Specifically, **this bill**:

1) Expands the crime of sexual exploitation of a child to apply to anyone who downloads, streams, or accesses through electronic or digital media any representation of information, data, or image, as specified above, that depicts a person under 18 years of age engaged in an act of sexual conduct.

2) Specifies that the crime of sexual exploitation of a child does not apply to a child under 18 years of age alleged to have solely engaged in viewing sexual conduct through a video stream.

3) Expands the definition of "sexual exploitation" for the purposes of the Child Abuse and Neglect Reporting Act (CANRA) to include a person who depicts a child in, or who knowingly develops, duplicates, prints, downloads, streams, accesses through any electronic or digital media, or exchanges digitally altered or artificial-intelligence-generated matter that depicts a person under 18 years of age engaged in an act of sexual conduct.

EXISTING LAW:

1) Prohibits, except as provided, the act of knowingly sending or causing to be sent, or bringing or causing to be brought, into this state for sale or distribution, or possessing, preparing, publishing, producing, developing, duplicating, or printing in this state any representation of information, data, or image, including, but not limited to specified media, or computer-generated equipment or any other computer-generated image that contains or incorporates in any manner, any film, filmstrip, or any digitally altered or artificial-intelligence-generated matter, with intent to distribute or to exhibit to, or to exchange with, others, or offering to distribute, distributing, or exhibiting to, or exchanging with, others, any obscene matter, knowing that the matter depicts a person under 18 years of age, or contains digitally altered or artificial-intelligence-generated data depicting what appears to be a person under 18 years of age, engaging in or simulating sexual conduct, as defined, and is punishable as an alternate-felony-misdemeanor. (Pen. Code, § 311.1, subd. (a).)

2) Prohibits the act of knowingly sending or causing to be sent, or bringing or causing to be brought, into this state for sale or distribution, or possessing, preparing, publishing, producing, developing, duplicating, or printing in this state, with intent to distribute or exhibit to others, or offering to distribute, distributing, exhibiting to others any obscene matter, punishable as a misdemeanor. (Pen. Code, § 311.2, subd. (a).)

3) Provides that every person who knowingly sends or causes to be sent, or brings or causes to be brought, into this state for sale or distribution, or in this state possesses, prepares, publishes, produces, develops, duplicates, or prints any representation of information, data, or image, including specified media that contains or incorporates in any manner, any film, filmstrip, or any digitally altered or artificial-intelligence-generated matter, with intent to distribute or to exhibit to, or to exchange with, others for commercial consideration, or who offers to distribute, distributes, or exhibits to, or exchanges with, others for commercial consideration, any obscene matter, knowing that the matter depicts a person under 18 years of age personally engaging in or personally simulating sexual conduct or that it contains a digitally altered or artificial-intelligence-generated depiction of what appears to be a person under 18 years of age engaging in such conduct is guilty of a felony. (Pen. Code, § 311.2, subd. (b).)

4) Provides that every person who knowingly sends or causes to be sent, or brings or causes to be brought, into this state for sale or distribution, or in this state possesses, prepares, publishes, produces, develops, duplicates, or prints any representation of information, data, or image, including specified media or computer-generated equipment or any other computer-generated image that contains or incorporates in any manner, any film, filmstrip, or any digitally altered or artificial-intelligence-generated matter, with intent to distribute or exhibit to, or to exchange with, a person 18 years of age or older, or who offers to distribute, distributes, or exhibits to, or exchanges with, a person 18 years of age or older any matter, knowing that the matter depicts a person under 18 years of age personally engaging in or personally simulating sexual conduct, or any obscene matter that contains a digitally altered or artificial-intelligence-generated depiction of what appears to be a person under 18 years of age engaging in such conduct, shall be guilty of a crime, punishable as a wobbler. (Pen. Code, § 311.2, subd. (c).)

5) Prohibits knowingly sending or causing to be sent, or bringing or causing to be brought, into this state for sale or distribution, or possessing, preparing, publishing, producing, developing, duplicating, or printing in this state any representation of information, data, or image, including specified media or computer-generated equipment or any other computer-generated image that contains or incorporates in any manner any film, filmstrip, or any digitally altered or artificial-intelligence-generated matter, with intent to distribute or exhibit to, or to exchange with, a person under 18 years of age, or offering to distribute, distributing, or exhibiting to, or exchanging with, a person under 18 years of age any matter, knowing that the matter depicts a person under 18 years of age personally engaging in or personally simulating sexual conduct, or any obscene matter that contains a digitally altered or artificial-intelligence-generated depiction of what appears to be a person under 18 years of age engaging in such conduct, punishable as a felony. (Pen. Code, § 311.2, subd. (d).)

6) Provides that every person who, with knowledge that a person is a minor under 18 years of age, or who, while in possession of any facts on the basis of which they should reasonably know that the person is a minor under 18 years of age, knowingly promotes, employs, uses, persuades, induces, or coerces a minor under 18 years of age, or any parent or guardian of a minor under 18 years of age who is under their control who knowingly permits the minor, to engage in or assist others to engage in either posing or modeling alone or with others for purposes of preparing any representation of information, data, or image, including specified media or computer-generated equipment or any other computer-generated image that contains or incorporates in any manner, any film, filmstrip, digitally altered or artificial-

intelligence-generated matter, or live performance, involving sexual conduct by a minor under 18 years of age alone or with other persons or animals, is guilty of a felony. (Pen. Code, § 311.4, subd. (c).)

7) Provides that a person is guilty of sexual exploitation of a child if that person knowingly develops, duplicates, prints, or exchanges any representation of information, data, or image, including, but not limited to, any film, filmstrip, photograph, negative, slide, photocopy, videotape, video laser disc, computer hardware, computer software, computer floppy disc, data storage media, CD-ROM (Compact Disc Read-Only Memory), or computer-generated equipment or any other computer-generated image that contains or incorporates in any manner, any film, filmstrip, or any digitally altered or artificial-intelligence-generated matter that depicts a person under 18 years of age engaged in an act of sexual conduct, punishable as a misdemeanor for a first offense and as a felony for any second or subsequent offense. (Pen. Code, § 311.3, subd. (a).)

8) Specifies that it is not necessary to prove that the matter is obscene in order to establish the violation above. (Pen. Code, § 311.3, subd. (b).)

9) Provides that the crime of sexual exploitation of a child does not apply to law enforcement and prosecution agencies, to legitimate medical, scientific, or education activities, or to lawful conduct between spouses. (Pen. Code, § 311.3, subd. (d).)

10) For the purposes of the crime of sexual exploitation of a child, defines "sexual conduct" as any of several enumerated sexual acts. (Pen. Code, § 311.3, subd. (c).)

11) Establishes CANRA which is generally intended to protect children from abuse and neglect with a focus on the needs of the victim. (Pen. Code, § 11164.)

12) Defines "neglect" under CANRA as the negligent treatment or the maltreatment of a child by a person responsible for the child's welfare under circumstances indicating harm or threatened harm to the child's health or welfare. The term includes both acts and omissions on the part of the responsible reporting person. (Pen. Code, § 11165.2)

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

14) Defines "child abuse or neglect" under CANRA to include physical injury or death inflicted by other than accidental means upon a child by another person, sexual abuse as defined, neglect as defined, the willful harming or injuring of a child or the endangering of the person or health of a child as defined, and unlawful corporal punishment or injury. "Child abuse or neglect" does not include a mutual affair 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.)

15) Requires any mandated reporter who has knowledge of or observes a child, their professional capacity or within the scope of their employment whom they know, or reasonably suspect has been the victim of child abuse or neglect, to report it as specified, to any police or sheriff's department, a county probation department if designated by the county to receive mandated reports, or the county welfare department. (Pen. Code, §§ 11166, subd. (a), 11165.9.)

16) For the purposes of CANRA, specifies that "sexual abuse" means sexual assault or sexual exploitation as defined by the following:

    a) "Sexual assault" means illegal sexual conduct as defined in several specified sections of the Penal Code, including provisions criminalizing rape, statutory rape, rape in concert, incest, sodomy, oral copulation, lewd or lascivious acts upon a child, sexual penetration, or child molestation, as specified.

    b) "Sexual exploitation" refers to the following:

        i. Conduct involving matter depicting a minor engaged in obscene acts in violation of the existing prohibition against preparing, selling or distributing obscene matter (Pen. Code, § 311.2) or against the employment of a minor to perform obscene acts (Pen. Code, § 311.4).

        ii. A person who knowingly promotes, aids, or assists, employs, uses, persuades, induces, or coerces a child, or a person responsible for a child's welfare, who knowingly permits or encourages a child to engage in, or assist others to engage in, prostitution or a live performance involving obscene sexual conduct, or to either pose or model alone or with others for purposes of preparing a film, photograph, negative, slide, drawing, painting, or other pictorial depiction, involving obscene sexual conduct. For the purpose of this provision, "person responsible for a child's welfare" means a parent, guardian, foster parent, or a licensed administrator or employee of a public or private residential home, residential school, or other residential institution.

        iii. A person who depicts a child in, or who knowingly develops, duplicates, prints, downloads, streams, accesses through any electronic or digital media, or exchanges, a film, photograph, videotape, video recording, negative, or slide in which a child is engaged in an act of obscene sexual conduct, except as provided. (Pen. Code, § 11165.1.)

17) Mandates the appropriate local law enforcement agency investigate a child abuse complaint filed by a parent or guardian of a pupil with a school or an agency, as specified, against a school employee or other person that commits an act of child abuse, as defined in this article, against a pupil at a school site and shall transmit a substantiated report, as defined, of that investigation to the governing board of the appropriate school district or county office of education.

FISCAL EFFECT: Unknown.

COMMENTS:

1) **Sponsor**: Los Angeles City Attorney

2) **Author's Statement**: According to the author, "Every child deserves to be safe and California law must reflect that without exception. As technology evolves, so do the methods predators use to exploit children. Livestreaming platforms and AI-generated content have created dangerous new loopholes that bad actors are actively using to harm minors, and our current laws have not kept pace. SB 1276, the End Child Exploitation Act, closes those loopholes once and for all. This bill amends the Penal Code to make clear that knowingly watching a livestream of a minor engaged in sexual conduct is a crime, full stop. It also updates the definition of sexual exploitation to specifically include AI-generated and digitally altered images or videos that depict minors in sexual acts.

   "The technology may be new, but the harm is just as real, and the law should treat it that way. No technicality should stand between a child and justice. No predator should escape accountability simply because they exploited a gap in the law. SB 1276 sends an unambiguous message: California will not tolerate the sexual exploitation of children in any form. I am proud to author this bill and call on my colleagues to stand with California's children. Protecting the most vulnerable among us is not a partisan issue, it is a moral obligation."

3) **Sexual Exploitation of a Child**: Existing law criminalizes the production, viewing, creation, downloading, or transfer of child sexual assault material (CSAM) (formerly referred to as child pornography). In 2024, criminal penalties around CSAM were updated to include AI-generated or digitized material that scrapes the internet and dark web for images of real children and generates them into CSAM.[1] This bill seeks to include any person who downloads, streams, or access through electronic digital media in the definition of sexual exploitation.

   Penal Code section 311.3 was added in 1981. The U.S. Supreme Court ruled in *New York v. Ferber* (1982) 458 U.S. 747 that "the exploitive use of children in the production of pornography has become a serious national problem [...] the prevention of sexual exploitation and abuse of children constitutes a government objective of surpassing importance." (*Id.*, 458 U.S. at 757.) The *Ferber* court held that CSAM was not entitled to First Amendment protection, and the New York statute was not vague or overbroad. (*Id.* at p. 773.)

   The court in *In re Duncan* in holding that our child exploitation statute is not unconstitutional, explained the purpose of Penal Code section 311.3 as follows:

   > To protect children from sexual abuse and invasion of their privacy rights through the development and duplication of photographs, movies and video tapes depicting them engaged in sexual conduct. Legally incapable of consent, these children are

---

[1] See AB 1831 (Berman), Chapter 926, Statutes of 2024; SB 1381 (Wahab), Chapter 929, Statutes of 2024.

> perpetually exploited, first by the original performance of these acts; then by the creation of a permanent record of the conduct; again, each time that record is reproduced; and then again when that photograph, film or video tape is viewed or passed on to another. In addition, these materials are used to induce *other* children to engage in sexual activity… The legislative history of section 311.3 reveals this provision was designed 'to deter pedophiles from exchanging pictures of minors and to prevent child molesters from using pictures of minors engaged in sexual conduct to suggest to their victims that such acts are acceptable.' (*In re Duncan* (1987) 189 Cal.App.3d 1348, 1358-59.)

Section 311.3 is either punishable by up to one year in the county jail or, if the defendant has a prior conviction for child exploitation, up to three years in state prison. A felony conviction for Penal Code section 311.3 is subject to lifetime sex offender registration. (Pen. Code, § 290, subd. (d)(3)(R).)

The sections of the Penal Code criminalizing possession, distribution, exhibition, and production of CSAM pertain to what used to called "obscenity" statutes that "protected public decency and good morals." However, obscenity, as that term was used when most of these statutes were drafted has been mostly abandoned by the U.S. Supreme Court for anything other than CSAM. (Schauer, *Out of Range: on Patently Uncovered Speech* (2015) 128 Harv. L.Rev. F. 346, 349; see *United States v. Stevens* (2010) 559 U.S. 460, 480. However, even at its inception, Penal Code section 311.3 expressly stated that a prosecutor need not demonstrate "obscenity" to prove a charge of sexual exploitation. (Pen. Code, § 311.3, subd. (b).)

4) **CSAM and AI:** In 2024, AB 1831 (Berman) Chapter 926 and later, SB 1381 (Wahab) Chapter 929 updated sections 311.1 through 312.3 to include digital and AI-generated material. In 2002, the Supreme Court struck down the Child Pornography Prevention Act of 1996's ban on sexually explicit images that appeared to depict minors, but were not produced using minors, unconstitutionally proscribed protected speech. (See *Ashcroft v. Free Speech Coalition* (2002) 535 U.S. 234, *superseded by statute* in the Prosecutorial Remedies and Other Tools to end the Exploitation of Children Today Act ("PROTECT Act"). See Pub. L. No. 108-21 (April 30, 2003), § 502(a)(1), (a)(3); 18 U.S.C. § 2256(8)(B).) As explained by contributions in the congressional record:

> Currently prosecution of the possession of child sexual abuse material (CSAM) and related crimes, requires proof that the material in question depicts a real child. However, advances in AI and computer technology have made it possible, cheap, and easy to create highly realistic deepfake content, including CSAM. For example, websites available to the general public offer services that modify images of real people, including children, to make them appear nude. Other websites will generate artificial images of children in any position or situation the user demands. The images are often so realistic that the human eye cannot tell they are fake.

Numerous free applications utilize generative AI technology to produce images and videos of humans that appear real. There are many sites that provide free "text-to-image" services that allow a user to generate an image (or series of images) based upon text input. Some of these services include Dall-E, Midjourney, and Kasper Art. With minimal input, a user can produce images of humans that appear to be real. This includes material that could involve children.

These results demonstrate the simplicity of the process for producing lifelike images of hypothetically "fictional" persons in realistic settings using a mobile device with no programming skills. Countless AI-image generating services not only allow the generation of nude, not-safe-for-work, or underage imagery, but actually market themselves for that ability.

Many of these services have basic free plans, but also paid plans that allow for more censor-free content generation. These services are not on the dark web, but within the open internet for anyone – including children – to find. The wide availability and use of technology in this way is deeply troubling for a number of reasons. For example, as CSAM becomes more readily available, and simultaneously more difficult to prosecute, CSAM consumers will be able to view more volume and more explicit content than before. Viewers of CSAM can then become desensitized, they will seek more harmful materials and eventually are likely to escalate their conduct to physical child sexual abuse.

Before an artificially intelligent program is utilized to create something, it needs to be taught what it is going to produce and how it is going to produce it. AI can learn to recognize and understand images through a process known as image recognition or computer vision. Image recognition occurs by analyzing data and identifying patterns or rules that it needs to follow. For example, by showing a computer dozens of images of cats and dogs, over time it will develop a generalized idea of what a cat and what a dog should look like. When shown an image, the computer should then have information to make an intelligent assumption of what kind of animal is shown. If the amount of training data provided to the AI program is increased, the accuracy of what the AI program produces should also increase.[2]

---

[2] See Federal Bureau of Investigation, Internet Crime Complaint Center, March 2024 https://www.ic3.gov/PSA/2024/PSA240329 https://enoughabuse.org/get-vocal/laws-by-state/state-laws-criminalizing-ai-generated-or-computer-edited-child-sexual-abuse-material-csam/; chrome-extension://efaidnbmnnnibpcajpcglclefindmkaj/https://www.justice.gov/d9/2023-06/child_sexual_abuse_material_2.pdf

As noted above, California updated its CSAM statutes to include digital and AI-generated images of children because the evidence demonstrates such images rely on photos of actual children and may demonstrate a propensity for criminal sexual conduct with children.

5) **Child Pornography:** Possession or distribution of child pornography is punishable as either a misdemeanor or felony, and in some cases, may be a state prison felony.[3] Penal Code section 311.2, subdivision (a) criminalizes distribution or exhibition of obscene material, including child pornography, and requires a maximum sentence of one year in state prison. Additionally, Penal Code section 311.2 may be charged per image and, in some case, aggregated to increase the total sentence. (*People v. Haraszewski* (2012) 203 Cal.App.4th 924.) Penal Code section 311.2, subdivision (b) punishes exhibition or distribution of child pornography for commercial consideration as a felony subject to a maximum of six years in state prison. (Pen. Code, § 290, subd. (c).)

Penal Code section 311.2, subdivision (c) punishes exhibition or distribution of obscene matter to another person 18 and over knowing the material depicts a minor engaged in sexual conduct, may be sentenced to a maximum of 1 year in state prison. Penal Code section 311.2 subdivision (d) punishes distribution of obscene matter, including child pornography, to a person under the age of 18, by up to one year in county jail, or three years in state prison.

Penal Code section 311.3 criminalizes "sexual exploitation of a child" meaning knowingly developing or printing child pornography, as specified, and may be punished by up to one year in the county jail. (Pen. Code, § 311.3, subd. (d).) Penal Code section 311.4, subdivision (a) punishes knowingly employing a minor to distribute obscenity or pornography, as specified, and is subject to a punishment of up to one year in state prison. Penal Code section 311.11, subdivision (a) criminalizes possession of child pornography which is mostly punishable as a felony.

Penal Code section 311.3 criminalizes a person who knowingly develops, duplicates, or otherwise disseminates CSAM, including any digitally altered or artificial-intelligence-generated matter. A person must intentionally generate the material knowing a person is underage. As the court in *Duncan* pointed out:

> The legislative history of section 311.3 reveals that this provision was designed 'to deter pedophiles from exchanging pictures of minors and to prevent child molesters from using pictures of minors engaged in sexual conduct to suggest to their victims that such acts are acceptable.' (Rep. of the Sen. Com. on Jud. on Sen. Bill No. 331 (1981-1982 Reg. Sess.) p. 2.)." (*Duncan, supra*, 189 Cal.App.3d at 1359.)

As noted above, this bill adds any person who knowingly downloads, or accesses through electronic or digital media depicting a person under the age of 18 engaged in sexually explicit conduct. Since this is not the same as knowingly transmitting material, it is not clear

---

[3] See fn. 1, *supra*. As noted, these laws have not been amended in nearly 20 years and require felony defendants to serve their sentence in state prison – rather than county jail, when not otherwise specified. In this case, many of the offenses are straight felonies – meaning that short of additional statutory language, they are subject to a state prison sentence.

whether the intent requirement applies just to a person who knowingly streams sexually explicit conduct and also knows it is CSAM. Since the term "streaming" is more passive on apps like TikTok and Insta Reels, and terms such as "develop, duplicate, print, or exchange" are more active, the author may wish to clarify whether it intends to criminalize a person who intends to stream on TikTok or Reels, but not intentionally to view CSAM.

6) **CANRA:** In addition to adding downloading and streaming through an electronic or digital media to the child exploitation statute, this bill also adds digital, and AI generated images to the definition of sexual exploitation in CANRA. CANRA was enacted in 1980 for the purpose of protecting children from abuse and neglect, which it seeks to accomplish via a comprehensive reporting scheme aimed toward increasing the likelihood that child abuse victims will be identified. CANRA requires persons in positions where abuse is likely to be detected – known as "mandated reporters" – to promptly report all suspected and known instances of child abuse and neglect to the relevant authorities, and identifies nearly 50 separate categories of mandated reporters, including teachers, school employees, doctors, athletic coaches, police officers, firefighters, social workers, and persons whose duties require direct contact with and supervision of minors, among many others.

   A mandated reporter must make a report when they have knowledge of or observe a child whom the mandated reporter knows, or reasonably suspects is or has been the victim of child abuse or neglect.

   For the purposes of CANRA, "child abuse or neglect" is defined to include physical injury or death inflicted by other than accidental means upon a child by another person, sexual abuse as defined, neglect as defined, the willful harming or injuring of a child or the endangering of the person or health of a child as defined, and unlawful corporal punishment or injury as defined.

   CANRA defines "sexual abuse" broadly, both by reference to existing crimes and by establishing definitions for "sexual assault" and "sexual exploitation," both of which fall under the ambit of "sexual abuse." Since the duty to report is triggered by the nature of the material or conduct and not the ability to identify a specific victim or perpetrator, the bill requires mandated reporters to report any knowledge or reasonable suspicion of digitally altered or artificial intelligence generated matter that depicts a person under 18 engaged in sexually explicit conduct, including AI or digitally generated images.

7) **Argument in Support**: According to *American Association of University Women*, "Developing, printing, or exchanging sexual content of a minor under 18 is considered sexual exploitation under the Child Abuse and Neglect Reporting Act. This includes material in any form, such as film, photographs, videotapes, computer hardware/software, data storage, or any other digital media However, possessing these items does not fall under sexual exploitation. Artificial intelligence-generated sexual content of minors is also not included in the current definition.

   "SB 1276 would make it a crime to possess any depiction of a person under 18 engaged in an act of sexual conduct via download, stream, or access through electronic or digital media. The bill also expands the definition of sexual exploitation under the Child Abuse and Neglect Reporting Act to include any digitally altered or AI-generated content depicting a person under 18. As the digital landscape evolves, we must be responsive to effectively protect

children from sexual exploitation SB 1276 is an important piece of legislation that helps meet this ongoing and urgent need."

8) **Argument in Opposition**: According to *California Attorneys for Criminal Justice*, "Child pornography is morally repugnant. However, what makes child pornography criminal—and why possession and distribution of child pornography is punished so severely (including potential lifetime sex registration)—is not the immorality of the content. The central basis of the criminality of child pornography is the victimization of actual children in its creation. For instance, if consenting adults dress up as children and pretend to be children for the purposes of sexual roleplay or creation of pornography, this behavior is not considered illegal, even if many would deem such behavior highly offensive and morally repugnant. And virtual child pornography, to the extent it does not involve the depiction and victimization of actual children, similarly is not categorically criminal, and in fact implicates the First Amendment.

"The United States Supreme Court struck down a federal law banning virtual child pornography for precisely this reason. (See *Ashcroft v. Free Speech Coalition* (2002) 535 U.S. 234.) As the high court explained, in contrast to the child pornography at issue in New York v. Ferber (1982) 458 U. S. 747—a form of speech that was itself a record of sexual abuse—the federal law banning virtual child pornography "prohibits speech that records no crime and creates no victims by its production. Virtual child pornography is not 'intrinsically related' to the sexual abuse of children, as were the materials in Ferber." (Ashcroft, supra, 535 U.S. at p. 234.) Applying some of these principles, California Courts have held that a defendant's act in placing pictures of child's head on nude bodies of adult women was insufficient to support conviction for possession of child pornography, as these pictures did not involve sexual exploitation of an actual child. (People v. Gerber (2011) 196 Cal.App.4th 368, 377.)

"The problem with SB 1276 is that it modifies the definition of "sexual exploitation" in a way that criminalizes the creation of content that is produced, not as the result of the victimization of actual children, but through artificial intelligence. While the bill language does require the depiction of an actual person – as opposed to the recent amendments to Section 311.11, which criminalize content that depicts what appears to be a person under 18 – as drafted the bill would violate the First Amendment, because it does not require the victimization of an actual child in the production of computer-generated content.

"In Gerber, the defendant challenged his conviction under Section 311.11(a) on the grounds that the content he possessed had been created using Microsoft Paint, by replacing his minor daughter's face on pornographic images of women he had downloaded from the Internet. Citing Ashcroft, the Gerber court found such images are protected by the First Amendment. In so holding the court found "that the articulated rationales underlying both the Ferber and Free Speech Coalition decisions compel the conclusion that such altered materials are closer to virtual child pornography than to real child pornography since the use of photo editing software to replace an adult's head with a child's head on pornographic images of the adult does not necessarily involve sexual exploitation of an actual child." (Gerber, supra, 196 Cal.App.4th at p. 386.)

"The amendments to section 11165.1 that SB 1276 proposes raise the same concerns. To pass constitutional muster, the statute would need to limit application of the prohibition of "digitally altered to artificial-intelligence-generated matter" to instances where a child is

victimized, not circumstances like those in Gerber, where the computer-generated image depicts part of a real child, but the sexual-conduct aspect of the image is computer-generated and did not involve an actual child in its creation.

"As a society, we should focus our criminal laws on behavior which harms actual victims, and not on severe punishments based on whether a person has deviant sexual interests. Sexual exploitation of real children is simply not the same as virtual content created by artificial intelligence, no matter how offensive that content may be."

9) **Related Legislation**: SB 1015 (Strickland) would make it a wobbler for any adult to recruit, induce, coerce or persuade a minor to commit an illegal act against another minor, or to solicit physical harm, sexual conduct, or images of an intimate body part, from another minor, as specified, and expands the crime of extortion to apply to minors in cases where the minor has knowingly threatened, intimidated or coerced another minor to engage in any sexual conduct or obtain an image of an intimate body part from another minor, as specified. SB 1015 is pending hearing in this committee.

10) **Prior Legislation**:

a) AB 1831 (Berman), Chapter 926, Statutes of 2024, expanded the scope of certain provisions related to child pornography and obscene matter to include digitally altered or AI-generated matter, as provided.

b) SB 1381 (Wahab), Chapter 929, Statutes of 2024, expanded the scope of certain provisions related to child pornography to include digitally altered or AI-generated matter that depicts a person under 18 years of age engaged in sexual conduct, as provided.

REGISTERED SUPPORT / OPPOSITION:

Support

American Association of University Women - California
California District Attorneys Association
California Family Resource Association
California State Sheriffs' Association
California Teachers Association
Child Abuse Prevention Center and its Affiliates Safe Kids California, Prevent Child Abuse California and the California Family Resource Association; the
City of Sunnyvale
Los Angeles County District Attorney's Office
Sistahfriends
Strength United
The California Baptist Capitol Ministry

Opposition

California Attorneys for Criminal Justice

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

Date of Hearing: June 23, 2026
Deputy Chief Counsel: Stella Choe

ASSEMBLY COMMITTEE ON PUBLIC SAFETY
Nick Schultz, Chair

SB 1285 (Durazo) – As Amended June 11, 2026

SUMMARY: Expressly states that the statute that authorizes a juvenile court judge's discretion to dismiss a petition in the interests of justice is a general dismissal statute. **Specifically**, this bill:

1) States that an adjudication dismissed pursuant to Welfare and Institutions Code Section 782 shall be deemed to have not occurred and a person shall not suffer any adverse consequences in the future based on the dismissed adjudication.

2) Provides that a dismissal of a sustained petition pursuant to this provision shall be deemed to constitute both a dismissal of the petition and a setting aside of any findings.

3) States the intent of the Legislature in enacting this act is to codify the holding of *In re David T.* (2017) 13 Cal.App.5th 866 and *People v. Haro* (2013) 221 Cal.App.4th 718, and to disapprove the holdings in *In re Taylor C.* (2024) 101 Cal.App.5th 492 and *In re Parker B.* (2026) 120 Cal.App.5th 382.

4) States that intent of the legislature that in adding subdivision (e) in Welfare and Institutions Code Section 782 via AB 2629 (Chapter 970 of the Statutes of 2022) was to reaffirm existing law that dismissal pursuant to Section 782 and sealing of records pursuant to applicable sealings statutes are related yet distinct procedures; the Legislature did not intend to modify or reduce the relief afforded by a dismissal granted pursuant to Section 782, to change the character of that section as a general dismissal statute, or to alter established law holding that a dismissal under Section 782 removes restrictions on sealing that may be contained in the sealing statutes.

5) States the intent of the Legislature to reaffirm that once a juvenile court dismisses a juvenile petition pursuant to Welfare and Institutions Code Section 782, the petition is effectively erased as if the subject of the petition had never suffered it in the initial instance.

EXISTING LAW:

1) States that a minor between 12 and 17 years of age, inclusive, who violates any federal, state, or local law or ordinance, and a minor under 12 years of age who is alleged to have committed murder or a specified sex offenses, is within jurisdiction of the juvenile court, which may adjudge the minor to be a ward of the court. (Welf. & Inst. Code, § 602.)

2) Authorizes a juvenile court judge to dismiss a petition, or set aside the findings and dismiss the petition, if the court finds that the interests of justice and the welfare of the person who is the subject of the petition require that dismissal, or if it finds that they are not in need of treatment or rehabilitation. (Welf. & Inst. Code, § 782, subd. (a)(1).)

3) Provides the court has jurisdiction to order dismissal or setting aside of the findings and dismissal regardless of whether the person who is the subject of the petition is, at the time of the order, a ward or dependent child of the court. Specifies that nothing in existing law shall be interpreted to require the court to maintain jurisdiction over a person who is the subject of a petition between the time the court's jurisdiction over that person terminates and the point at which their petition is dismissed. (Welf. & Inst. Code, § 782, subd. (a)(1).)

4) Requires the court, when exercising its discretion at the time the court terminates jurisdiction or at any time thereafter, to consider and afford great weight to evidence offered by a person to prove mitigating circumstances are present, including, but not limited to, satisfactory completion of a term of probation, that rehabilitation has been attained to the satisfaction of the court, that dismissal of the petition would not endanger public safety, or that the underlying offense is connected to mental illness, prior victimization, or childhood trauma. Provides that proof of the presence of one or more mitigating circumstances weighs greatly in favor of dismissing the petition. (Welf. & Inst. Code, § 782, subd. (a)(2)(A).)

5) Defines "satisfactory completion of a term of probation" to mean the person has no new findings of wardship or conviction for a felony offense or a misdemeanor involving moral turpitude during the period of supervision or probation and if the person has not failed to substantially comply with the reasonable orders of supervision or probation that are within their capacity to perform. (Welf. & Inst. Code, §§ 782, subd. (a)(2)(B), 786, subd. (c)(1).)

6) Defines "rehabilitation has been attained to the satisfaction of the court" to mean consistent with Section 781 which includes that the person has not been convicted of a felony or of any misdemeanor involving moral turpitude. (Welf. & Inst. Code, § 782, subd. (a)(2)(C).)

7) Defines "mental illness" as a mental disorder identified in the most recent edition of the Diagnostic and Statistical Manual of Mental Disorders excluding antisocial personality disorder, borderline personality disorder, and pedophilia. (Welf. & Inst. Code, § 782, subd. (a)(2)(D); Pen. Code, § 1385, subd. (c)(5).)

8) Provides that "childhood trauma" means that as a minor the person experienced physical, emotional, or sexual abuse, physical or emotional neglect. (Welf. & Inst. Code, § 782, subd. (a)(2)(D); Pen. Code, § 1385, subd. (c)(6)(A).)

9) Provides that "prior victimization" means the person was a victim of intimate partner violence, sexual violence, or human trafficking, or the person has experienced psychological or physical trauma, including, but not limited to, abuse, neglect, exploitation, or sexual violence. (Welf. & Inst. Code, § 782, subd. (a)(2)(D); Pen. Code, § 1385, subd. (c)(6)(B).)

10) Defines "endanger public safety" to mean there is a likelihood that the dismissal of the enhancement would result in physical injury or other serious danger to others. (Welf. & Inst. Code, § 782, subd. (a)(2)(D); Pen. Code, § 1385, subd. (c)(2).)

11) Provides that the great weight standard set forth in this paragraph is not applicable in cases where an individual has been convicted in criminal court of a serious or violent felony. Specifies that "serious or violent felony" means any offense defined in subdivision (c) of

Section 667.5, or in subdivision (c) of Section 1192.7, of the Penal Code. (Welf. & Inst. Code, § 782, subd. (a)(2)(E)-(F).)

12) Prohibits the absence of the great weight standard under the circumstances described above from affecting the court's authority to dismiss a petition. (Welf. & Inst. Code, § 782, subd. (a)(2)(G).)

13) Requires the reasons for a dismissal decision to be stated orally on the record. Requires the court to also set forth the reasons in an order entered upon the minutes if requested by either party or in any case in which the proceedings are not being recorded electronically or reported by a court reporter. (Welf. & Inst. Code, § 782, subd. (b).)

14) Provides that the court has authority to exercise discretion to dismiss at any time after the filing of the petition. (Welf. & Inst. Code, § 782, subd. (c).)

15) Provides that the court has the authority to exercise discretion to dismiss regardless of whether a petition was sustained at trial, by admission or plea agreement. (Welf. & Inst. Code, § 782, subd. (d).)

16) States that dismissal of a petition, or setting aside of the findings and dismissal of a petition, after the person was declared a ward, does not alone constitute a sealing of records as defined in Section 781 or 786. Provides that any unsealed records pertaining to the dismissed petition may be accessed, inspected, or used by the court, the probation department, the prosecuting attorney, or counsel for the minor in juvenile court proceedings commenced by the filing of a new petition. (Welf. & Inst. Code, § 782, subd. (e).)

17) Provides that dismissal of the petition, or setting aside the findings and dismissal of the petition, does not relieve a person from the obligation to pay unfulfilled victim restitution ordered pursuant to a civil judgment. (Welf. & Inst. Code, § 782, subd. (f).)

FISCAL EFFECT: Unknown.

COMMENTS:

1) **Sponsor**: California Youth Defender Center

2) **Author's Statement**: According to the author, "California's juvenile justice system is designed to rehabilitate youth and operates separately from the criminal justice system to eliminate long-term collateral consequences after termination of their court involvement. Juvenile courts have discretion to seal records and grant dismissals. Unfortunately, many people with past juvenile justice involvement encounter obstacles to fully participate in society, even after their juvenile records have been sealed.

   "This is why I am proud to author SB 1285, which codifies the holding in In re David T. that section 782 is a general dismissal statute and that a petition dismissed under Welfare and Institutions Code Section 782 is treated as if it never happened, protecting the individual from unfair or harmful consequences in the future, in accordance with longstanding and widely accepted interpretations of California's dismissal law.

"SB 1285 safeguards justice for youth and ensures youth are treated with fairness and dignity, clarifying and reaffirming the Legislature's spirit of the reform. We must steadfastly uphold commitment to meaningful second chances by empowering youth to begin their adult lives with a broader horizon—one that includes healing, rehabilitation, careers, and meaningful societal connections such as support networks, mentorship, and faith-based groups."

3) **Juvenile Court Jurisdiction and Sealing of Records**: As a general rule, any person between the age of 12 and 17 who commits a crime falls within the jurisdiction of the juvenile court. (Welf. & Inst. Code, § 602.) This extends to a youth alleged to have committed a crime before their 18th birthday, even if they were an adult at the time of arrest or commencement of proceedings. (Welf. & Inst. Code, § 603.) For example, if someone commits a crime at age 17, but it is not discovered or tried until the person is 20, the person can still be tried in juvenile court. The jurisdiction of the juvenile court generally continues until the youth is 21 years old, unless the youth committed a 707(b) offense, then the court may retain jurisdiction until the person attains 23 years of age. Additionally, if the youth would have, in criminal court, faced an aggregate sentence of 7 years or more, the juvenile court's jurisdiction continues until the youth turns 25. (Welf. & Inst. Code, § 607.)

The creation of the juvenile court, now over 100 years old, was rooted in the idea that adolescents, who are not fully developed or mature, are less culpable than adults. Accordingly, the focus of the juvenile court was rehabilitation, not punishment. (See, e.g., *In re Gault* (1967) 387 U.S. 1, 15-16.) The purpose of the juvenile law is to provide for the protection and safety of the public and each minor under the jurisdiction of the court and to preserve and strengthen family ties when possible. (Welf. & Inst. Code, § 202, subd. (a).) Minors under the jurisdiction of the juvenile court as a consequence of delinquent conduct receive care, treatment, and guidance that is consistent with their best interest, that holds them accountable for their behavior, and that is appropriate for their circumstances. This may include punishment that is consistent with rehabilitative objectives. (Welf. & Inst. Code, § 202, subd. (b).) The juvenile court has a wide range of options available for placing its wards, including probation, placement in a relative's home, foster home, licensed community care facility, or group home, and commitment to "a juvenile home, ranch, camp, or forestry camp" or "the county juvenile hall." (Welf. & Inst. Code, §§ 727, subd. (a); 730, subd. (a)(1).)

Because the focus of juvenile court is rehabilitation, juvenile court records generally must be destroyed when the person of record reaches the age of 38 unless good cause is shown for maintaining those records. (Welf. & Inst. Code, § 826.) The person of record may also petition to destroy records retained by agencies other than the court. (Welf. & Inst. Code, § 826, subd. (b).) The request must be granted unless good cause is shown for retention of the records. (Welf. & Inst. Code, § 826.) When records are destroyed pursuant to the above provision, the proceedings "shall be deemed never to have occurred, and the person may reply accordingly to an inquiry." (Welf. & Inst. Code, § 826, subd. (a).) Courts have held that the phrase "never to have occurred" means that the juvenile proceeding is deemed not to have existed. (*Parmett v. Superior Court (Christal B.)* (1989) 212 Cal.App.3d 1261, 1267.)

Minors adjudicated delinquent in juvenile court proceedings may petition the court to have their records sealed. (Welf. & Inst. Code, § 781.) To seal a juvenile court record, a petition must be filed by either the person who is the subject of the record or the probation

department. (Welf. & Inst. Code, § 781.) Juvenile court jurisdiction must have lapsed five years previously or the person must be at least 18 years old. (Welf. & Inst. Code, § 781, subd. (a).) The court must be satisfied that rehabilitation has been attained. (*Ibid.*) The records are not sealed if the person of record has been convicted of a felony or a misdemeanor involving moral turpitude. (*Ibid.*)

In addition, there is a special sealing procedure for cases in which the person has been found by the juvenile court to have committed one of the serious or violent offenses enumerated Welfare and Institutions Code Section 707(b) list, when he or she had attained 14 years of age. (Welf. & Inst. Code, § 781, subd. (a)(1)(D).)

Importantly, records sealed pursuant to Welfare and Institutions Code Section 781 are able to be accessed by a prosecutor if they believes that information is subject to a discovery obligation. (See Welf. & Inst. Code, § 781 (a)(1)(D)(iii).)

In a related section of the Welfare and Institutions Code, the sealing procedure is done automatically by the juvenile court. (Welf. & Inst. Code, § 786, subd. (a).) In order to qualify for automatic sealing, the person does not have to file any petition with the court. Instead, the person must simply complete the informal program of supervision, or term of probation imposed by the court. (*Ibid.*) This provision prohibits sealing of a record if the petition was sustained based on a commission of an offense listed in subdivision (b) of Welfare and Institutions Code section 707, unless the finding on that offense was dismissed or reduced to a misdemeanor or to a lesser offenses not listed in subdivision (b) of Welfare and Institutions Code section 707. (Welf. & Inst. Code, § 786, subd. (d).)

4) **Dismissals in the Interests of Justice:** Existing law gives broad discretion to juvenile judges to dismiss a petition filed in juvenile court, or set aside the findings and dismiss the petition, if the court finds that the interests of justice and the welfare of the person who is the subject of the petition require that dismissal, or if the court finds that they are not in need of treatment or rehabilitation. (Welf. & Inst. Code, § 782, subd. (a)(1).) The court may grant dismissal regardless of whether the person who is the subject of the petition is, at the time of the order, a ward of the court. (*Ibid.*) The court may exercise this discretion at the time the court terminates jurisdiction or at any time thereafter. (Welf. & Inst. Code, § 782, subd. (a)(1).)

In 2022, Welfare and Institutions Code Section 782 was amended[1] to require the court to consider and give great weight to evidence offered by a person to prove mitigating circumstances are present, including but not limited to, satisfactory completion of a term of probation, that rehabilitation has been attained to the satisfaction of the court, that the dismissal would not endanger public safety, or that the underlying offense is connected to mental illness, prior victimization, or childhood trauma. The statute provides that proof of the presence of one or more mitigating circumstances weigh greatly in favor of dismissing the petition, except in cases where the individual has been convicted in criminal court of a serious or violent felony. (Welf. & Inst. Code, § 782, subd. (a)(2).) This language is similar

---

[1] AB 2629 (Santiago), Ch. 970, Stats. 2022.

to provisions that were added to Penal Code Section 1385, the adult dismissal statute, the previous year.[2]

Amendments to the section also added that dismissal of a petition, or setting aside of the findings and dismissal of a petition, pursuant to this section, after the person was declared a ward, does not alone constitute a sealing of records as defined in Welfare and Institutions Code Sections 781 or 786 and that any unsealed records pertaining to the dismissed petition may be accessed, inspected, or used by the court, the probation department, the prosecuting attorney, or counsel for the minor in juvenile court proceedings commenced by the filing of a new petition. (Welf. & Inst. Code, § 782, subd. (e).) The bill also specified that a dismissal does not relieve a person from the obligation to pay unfulfilled victim restitution ordered pursuant to a civil judgement. (Welf. & Inst. Code, § 782, subd. (f).)

Prior to the 2022 amendments to Welfare and Institutions Code Section 782, the statute was interpreted by courts to be a general dismissal statute, meaning that a dismissal granted pursuant to that section "is intended to erase a prior adjudication – not just merely reduce or mitigate it – and to thereby protect the person from any and all future adverse consequences based on that adjudication." (*In re David T* (2017) 13 Cal.App.5th 866.) In *David T.*, a former juvenile defendant filed a motion to set aside a 1995 robbery finding and dismiss the petition pursuant to Section 782, and to have his records sealed pursuant to Section 781. The court granted the former juvenile's petition to dismiss the robbery finding on that grounds that it was in the interests of justice and welfare to do so, however denied the request to seal his juvenile records citing a prohibition against sealing records of specified crimes set forth in Welfare and Institutions Code section 781, subdivision (a)(1)(D).[3] (*David T.*, *supra*, at p. 866.)

The Court of Appeal reversed the lower court's order and held that when a juvenile court sets aside findings and dismisses a petition under Welfare and Institutions Code Section 782, the court's action operates, as a matter of law, to erase the prior sustained petition as if the defendant had never suffered it in the initial instance. (*Id.* at p. 866.) The court distinguished a dismissal under Section 782 from other types of dismissals such as pursuant to section 786: "A dismissal under section 782 differs from the standard dismissal that occurs when the juvenile court terminates jurisdiction at the conclusion of a juvenile case. Section 782 'was meant to codify and expand the juvenile court's discretionary dismissal power.' (*David. T.*, *supra*, at p. 873, citing *In re Greg F.* (2012) 55 Cal.4th 393, 419.) The court found an earlier ruling relevant that found that Section 782 is a general dismissal statute, similar in operation to Penal Code Section 1385: "dismissal under section 1385 of the charge underlying a prior conviction operates, as a matter of law, to erase the prior conviction as if the defendant had never suffered the conviction in the initial instance." (*David T.*, *supra*, at p. 873 citing *People v. Haro* (2013) 221 Cal.App.4th 718.)

In 2024, another Court of Appeal decision interpreted the 2022 amendments to Section 782 that stated that dismissal of a petition pursuant to Section 782 does not alone constitute a sealing of records as defined in Section 781 or 786 to mean that sealing of specified offenses

---

[2] SB 81 (Skinner), Ch. 721, Stats. 2021.

[3] Limits the ability of the court to seal juvenile records if the subject of the record was found to be a ward of the court because the commission of an offense listed in Welfare and Institutions Code, section 707(b) committed after attaining 14 years of age. This limitation was added by Proposition 21 (2000).

is precluded. (*In re Taylor C.* (2024) 101 Cal.App.5th 492.) Recently, another Court of Appeal decision affirmed that Section 782 is a general dismissal statute but noted that a court could grant a qualified dismissal rather than an unqualified one and that the limitations on such a dismissal would depend on the specific wording or scope of the court's dismissal. (*In re Parker B.,* 2026 WL 1208700.)

According to the sponsors of this bill, who were also the same sponsors of AB 2629 (Santiago), Chapter 970, Statutes of 20221, this language was not intended to limit the relief provided by a dismissal under Section 782. The amendment was intended to reaffirm existing law that dismissal pursuant to Section 782, and sealing of records pursuant to applicable sealing statutes, are related yet distinct procedures.

This bill states the intent of the Legislature to codify the holding of *In re David T.*, *supra*, and *People v. Haro*, *supra*, discussed above. The bill expressly states that Section 782 is a general dismissal statute and provides that an adjudication dismissed pursuant to that section shall be deemed to have not occurred and a person shall not suffer any adverse consequences in the future based on an adjudication dismissed pursuant to that section. This bill states the intent of the Legislature to disapprove the holdings of *In re Taylor C.*, *supra*, and *In re Parker B.*, *supra*, discussed above, and provides that a dismissal of a sustained petition pursuant to this section shall be deemed to constitute both a dismissal of the petition and a setting aside of any findings.

5) **Argument in Support**: According to *California Youth Defender Center*, the sponsor of this bill: "From its inception, section 782 has been considered by trial and appellate courts to be a 'general dismissal statute,' thereby affording broad relief, and A.B. 2629 was enacted based on this well-settled legal concept. To illustrate this point, the Court of Appeal in *In re David T.* held that section 782, like Penal Code section 1385, is a general dismissal statute, and once a juvenile court has determined in its discretion that 'the interest of justice and welfare of the person who is subject of the petition requires that dismissal,' such dismissal is intended to erase a prior adjudication, not merely reduce or mitigate it, and to thereby protect the person from any and all future adverse consequences based on that adjudication.

"Despite this long-standing principle that section 782 is a general dismissal statute, in 2024 an appellate court suggested that A.B. 2629 weakened, not strengthened, section 782.5 The appellate court misinterpreted paragraph (e) of section 782, which provides that dismissal 'does not alone constitute a sealing of records' -- language only intended to maintain the functional requirement that to achieve sealing of a dismissed petition, a sealing petition must also be filed. But *In re Taylor C.* suggested that A.B. 2629 eliminated the character of section 782 as a general dismissal statute and that the reasoning of *In re David T.* no longer applies.

"Not only did the appellate court misinterpret section 782(e), but it also disregarded the legislative intent of A.B. 2629, which was intended to strengthen and bring uniformity to section 782. It also misread the law's rehabilitative purpose and reduced the value of the law for young people who believed they had earned a true second chance.

"This troubling trend continued a week after Senate Bill 1285 (S.B. 1285) passed the Senate floor. A newly published decision, *In re Parker B.*, similarly misconstrued the interplay between section 782 and the juvenile record sealing statutes. The Parker B. court echoed *Taylor C.'s* misinterpretation of subdivision (e), mistakenly suggesting that it changed the

character of section 782 as a general dismissal statute and altered the long-established law that the granting of a dismissal under section 782 removes the restrictions on sealing that may be contained in the sealing statutes.

"Furthermore, the *Parker B.* court introduced an unprecedented, non-statutory distinction between 'qualified' and 'unqualified' dismissals. The court derived this concept from section 782, subdivision (a)(1), which states that a judge 'may dismiss the petition or may set aside the findings and dismiss the petition....' Legally, this phrasing simply reflects the procedural posture of the case at the time of dismissal: if the juvenile has not yet been declared a ward (i.e., the case is pre-adjudication), the court dismisses the petition under the first clause. If the juvenile has already been declared a ward (i.e., the case is post-adjudication), the court sets aside the findings and dismisses the petition (or specified counts in the petition, and the findings underlying those counts) under the second clause.

"Although the *Parker B.* court initially acknowledged that this posture-based interpretation aligned with the statute's literal wording, its final holding veered sharply from its own textual analysis. The court held that a post-adjudication dismissal automatically sets aside findings and dismisses the petition unless the juvenile court explicitly indicates a narrower, 'qualified' intent. Because the trial court in *Parker B.* did not explicitly limit its order, the appellate court characterized it as an 'unqualified dismissal.'

"In essence, the *Parker B.* holding creates a legal fiction. Since enactment of 782 in 1971, the statute has operated strictly as a uniform, general dismissal tool. Its dual phrasing accommodates the procedural reality of the case—either pre- or post-adjudication. The statute grants the juvenile court no discretion to craft a 'qualified' hybrid post-adjudication dismissal that leaves findings and collateral consequences intact. The court's only actual discretion, if granting a dismissal, is to either dismiss the petition in its entirety or, upon proper request, dismiss specific counts within it, along with dismissing the findings underlying the dismissed petition or counts.

"S.B. 1285 is a narrowly tailored bill intended to correct the judicial misinterpretations contained in the *Taylor C.* and *Parker B.* opinions. S.B.1285 does not create new law; rather, it reaffirms the longstanding understanding that section 782 is a general dismissal statute, and a dismissal of a sustained petition shall be deemed to constitute both a dismissal and a setting aside of any findings, as the statute has been interpreted since its enactment in 1971. Further, S.B. 1285 codifies the holdings of *In re David T.*, *People v. Haro*, and other appellate cases that an adjudication dismissed pursuant to section 782 shall be deemed to have not occurred, protecting individuals from future adverse consequences based on that adjudication."

6) **Argument in Opposition**: None

7) **Related Legislation**:

   a) AB 1886 (Elhawary) would remove the exclusion of wards that have been ordered to be under the supervision of the probation officer for placement in specified out-of-home placements from the 12-month limitation on term of probation in existing law. AB 1886 is pending hearing in Senate Public Safety Committee.

b) SB 1009 (Becker) would prohibit the court from ordering that a minor be detained in a juvenile hall unless it makes a finding that a less restrictive alternative to detention in the juvenile hall is unsuitable. SB 1009 is pending hearing by this committee.

8) **Prior Legislation**:

a) AB 2626 (Santiago), Chapter 970, Statutes of 2022, among other things, added specified mitigating circumstances for the court to consider when determining whether it is in the interests of justice to dismiss a juvenile petition.

b) AB 1537 (Cunningham), Chapter 50, Statutes of 2019, expanded a prosecutor's ability to request to access, inspect, or use specified sealed juvenile records if the prosecutor has reason to believe that the record may be necessary to meet a legal obligation to disclose favorable or exculpatory evidence to a defendant in a criminal case.

c) AB 529 (Stone), Chapter 685, Statutes of 2017, required the sealing of records relating to dismissed or unsustained juvenile court petitions and relating to diversion and supervision programs, as specified.

d) SB 312 (Skinner), Chapter 679, Statutes of 2017, authorized a sealing procedure for juveniles convicted of a serious or violent felony and allowed for access by the prosecutor in order to determine whether they have a disclosure obligation.

e) AB 666 (Stone), Chapter 368, Statutes of 2015, among other things, specified that the prohibition against automatic sealing of a record or dismissing a petition if the petition was sustained based on the commission of a specified serious or violent offense that was committed when the individual was 14 years of age or older does not apply if the finding on that offense was dismissed or was reduced to a lesser offense.

f) SB 1038 (Leno), Chapter 249, Statutes of 2014, provided for the automatic dismissal of juvenile petitions and sealing of records in cases where a juvenile offender successfully completes probation for any offense other than a specified violent or serious offense

REGISTERED SUPPORT / OPPOSITION:

Support

California Youth Defender Center (Sponsor)
ACLU California Action
Alianza for Opportunity
All of US or None Orange County
Alliance for Boys and Men of Color
Attorney-at-law, Michael Whelan
California Alliance of Child and Family Services
California Attorneys for Criminal Justice
California Coalition for Women Prisoners
California Public Defenders Association

Californians for Safety and Justice
Center on Juvenile and Criminal Justice
Children's Advocacy Institute
Communities United for Restorative Youth Justice (CURYJ)
Community Interventions
Courage California
East Bay Community Law Center
Ella Baker Center for Human Rights
Empowering Women Impacted by Incarceration
Families Inspiring Reentry & Reunification 4 Everyone
Felony Murder Elimination Project
Fresh Lifelines for Youth
Fresh Lifelines for Youth (FLY)
Friends Committee on Legislation of California
Glide
Glide Foundation
Haywood Burns Institute
Idco
Initiate Justice
Justice2jobs Coalition
Juvenile Justice Advocates of California
LA Defensa
Law Foundation of Silicon Valley
Legal Services for Prisoner With Children
Legal Services for Prisoners With Children / All of US or None
Local 148 Los Angeles County Public Defender's Union
Milpa Collective
National Compadres Network
Rubicon Programs
San Francisco Public Defender
San Francisco Public Defender's Office
San Mateo County Private Defender Program, Kathryn Yolken
San Quentin Skunkworks
Silicon Valley De-bug
Sister Warriors Freedom Coalition
Smart Justice California, a Project of Beyond Impact
The Collective for Liberatory Lawyering
Youth Forward
Youth Law Center
Youth Leadership Institute

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

Date of Hearing: June 23, 2026
Counsel: Kimberly Horiuchi

ASSEMBLY COMMITTEE ON PUBLIC SAFETY
Nick Schultz, Chair

SB 1307 (Jones) – As Amended June 17, 2026

SUMMARY: Authorizes a defendant who was charged with knowingly filing, registering, or recording a false or forged instrument and receives diversion, as specified, to stipulate to the voiding of the false or forged instrument. Specifically, **this bill**:

1) Requires the court, upon written motion by the prosecution, after a hearing, as specified, to issue a written order that the false or forged instrument be adjudged void *ab initio*[1] if the court determines that an order is appropriate.

2) Mandates the order state whether the instrument is false or forged, or both false and forged, and describe the nature of the falsity or forgery.

3) States a copy of the instrument shall be attached to the order at the time it is issued by the court, and a certified copy of the order shall be filed, registered, or recorded at the appropriate public office by the prosecuting agency.

4) States if the defendant withdraws from diversion or fails to complete the terms of diversion and criminal proceedings are reinstated, the stipulation to void the false or forged instrument shall not be used in connection with any civil or criminal proceeding without the defendant's consent.

5) Prohibits a defendant's failure to stipulate to the voiding of the false or forged instrument from being used as grounds for denial of diversion or a finding that the defendant has failed to comply with the terms of diversion.

6) States that if the defendant withdraws from diversion or fails to complete the terms of diversion and criminal proceedings are reinstated, the stipulation to void the false or forged instrument shall not be used in connection with any civil or criminal proceeding without the defendant's consent.

EXISTING LAW:

1) Provides that every person who knowingly procures or offers any false or forged instrument to be filed, registered, or recorded in any public office within this state, which instrument, if genuine, might be filed, registered, or recorded under any law of this state or of the United States, is guilty of a felony. (Pen. Code, § 115, subd. (a).)

---

[1] *Ab initio* is a Latin term that means "from the beginning" or "from inception." Ab initio is used to indicate that some fact existed from the start of a relevant time period. It is often used as part of the phrase "void ab initio," meaning something (like a contract) was void from the beginning.

2) Provides that each instrument which is procured or offered to be filed, registered, or recorded constitutes a separate violation. (Pen. Code, § 115, subd. (b).)

3) Prohibits probation from being granted or the suspension of the execution or imposition of sentence, for any of the following persons:

   a) Any person with a prior conviction for knowingly filing a false or forged instrument who is again convicted of a violation in a separate proceeding.

   b) Any person who is convicted of more than one violation of knowingly filing a false or forged instrument in a single proceeding, with intent to defraud another, and where the violations resulted in a cumulative financial loss exceeding $100,000. (Pen. Code, § 115, subd. (c).)

4) Provides that each act of procurement or of offering a false or forged instrument to be filed, registered, or recorded is considered a separately punishable offense. (Pen. Code, § 115, subd. (d).)

5) Requires the court, after a person is convicted of a violation, or a plea is entered whereby a charge alleging a violation is dismissed and waiver is obtained pursuant to *People v. Harvey* (1979) 25 Cal.3d 754, upon written motion of the prosecuting agency, to issue a written order, after a hearing, that the false or forged instrument be adjudged void *ab initio* if the court determines that an order is appropriate under applicable law. Requires the order to state whether the instrument is false or forged, or both, and describe the nature of the falsity or forgery. (Pen. Code, § 115, subd. (e)(1).)

6) Provides that if the order pertains to a false or forged instrument that has been recorded with a county recorder, an order must be recorded in the county where the affected real property is located. Requires the order to also reference the county recorder's document recording number of any notice of pendency of action recorded. (Pen. Code, § 115, subd. (e)(2)(A).)

7) Specifies the procedures a prosecuting agency must follow in filing a motion to void the false or forged instrument. (Pen. Code, § 115, subd. (f).)

FISCAL EFFECT: Unknown.

COMMENTS:

1) **Sponsor**: San Diego District Attorney's Office

2) **Author's Statement**: According to the author, "Real estate fraud can leave victims with a cloud on their title for years while a criminal case works its way through the courts. Under current law, a judge generally cannot void a false deed until a defendant is convicted. Because these cases are often complex, courts face heavy caseloads, causing victims to wait years before their title is cleared. In some instances, such as when a court grants a defendant's diversion motion, a conviction may never occur. During this time, victims may be unable to sell, refinance, or otherwise make use of their property. Without a conviction, the victim's only recourse is often to file a civil lawsuit to determine rightful ownership of

the property. These proceedings can be costly, time-consuming, and require hiring a private attorney, which many victims simply cannot afford, leaving them without meaningful relief."

3) **False or Forged Instruments**: Penal Code section 115 makes it a felony to knowingly procure or offer any false or forged instrument to be filed, registered, or recorded in any public office within this state. The purpose of Section 115 is to preserve the integrity of public documents. (*People v. Denman* (2013) 218 Cal.App.4th 800, 808.) The statute differentiates between false and forged documents but clearly proscribes either kind of instrument. (*Generes v. Justice Court* (1980) 106 Cal.App.3d 678, 682.)

Penal Code section 115 applies to any "instrument" that, "if genuine, might be filed, registered, or recorded under any law of this state or of the United States …." (Pen. Code, § 115, subd. (a).) Existing law defines "instrument" broadly, including any type of document that is filed or recorded with a public agency that, if acted on as genuine, would have the effect of deceiving someone. (See *People v. Parks* (1992) 7 Cal.App.4th 883, 886–887; *Generes v. Justice Court* (1980) 106 Cal.App.3d 678, 682–684.) Therefore, the courts have held that "instrument" includes a modified restraining order. *(People v. Parks, supra,* 7 Cal.App.4th at p. 886), false bail bonds (*People v. Garcia* (1990) 224 Cal.App.3d 297, 306–307), and falsified probation work referrals (*People v. Tate* (1997) 55 Cal.App.4th 663, 667).

In *People v. Parks*, the defendant assaulted the new boyfriend of his former girlfriend. Defendant, not the victim, filed for a temporary restraining order prohibiting his ex-girlfriend and the new boyfriend from contacting defendant. However, when he sought to have the local Marshal serve the restraining order, the defendant added language to the restraining order that appeared to require the ex-girlfriend and the new boyfriend to vacate their home. The Marshal realized the scam and charged the defendant with filing a false document pursuant to Penal Code section 115. The court rejected the defendant's argument on appeal that the restraining order was not an "instrument." (*Parks, supra,* 7 Cal.App.4th at p. 887.) In its holding, the court stated:

> As enacted in 1872, section 115 was one of five sections (§ 113, 114, 115, 116, and 117) which formed chapter 4 of the Penal Code. Chapter 4 was and is entitled "Forging, Stealing, Mutilating, and Falsifying Judicial and Public Records and Documents." The "ostensible objects to be achieved" were the integrity of "judicial and public records." The "evils to be remedied" clearly included "forging, stealing, mutilating, and falsifying" such records. Whatever else may be meant by the word "instrument," on these facts we find that protection of judicial and public records such as the documents in this case was clearly within the legislative intent of section 115.

(*Parks, supra,* 7 Cal.App.4th at 887.)

Several years later, in *People v. Powers* (2004, 117 Cal.App.4th 291, 297), the court held that fishing records were "instruments" under Penal Code section 115. However, the court stated that "California courts have shown reluctance to interpret section 115 so broadly that it encompasses any writing that may be filed in a public office." (*Id.* at p. 295.)

The court adopted the following analysis for whether a document is an "instrument," quoting the Washington Supreme Court:

> "(1) the claimed falsity relates to a material fact represented in the instrument; and (2a) the information contained in the document is of such a nature that the government is required or permitted by law, statute or valid regulation to act in reliance thereon; or (2b) the information contained in the document materially affects significant rights or duties of third persons, when this effect is reasonably contemplated by the express or implied intent of the statute or valid regulation which requires the filing, registration, or recording of the document."

(*Id.* at p. 297 quoting *State v. Price* (1980) 94 Wash.2d 810, 819.)

Penal Code section 115 most often arises in cases where a false or fraudulent deed is recorded with the county. False or forged deeds were filed at record numbers during the years leading up to the Great Recession. In the context of a deed, the court explained the notion of a false deed:

> Here the lack of an ownership interest in the land goes to the deception itself. If Generes did not own the interest she purported to convey, the instrument she filed was clearly false. Having no right to grant or convey an easement, her recording of a deed transferring an easement would establish a cloud on the title of those persons who lawfully owned interests in the land. A title searcher encountering the spurious document who acted upon it as genuine would of course be materially deceived. (*Generes v. Justice Court, supra*, 106 Cal.App.3d at 682.)

4) **Voiding a False or Forged Document:** Penal Code Section 115 outlines a process for a false or forged instrument to be declared void after a person is convicted of knowingly filing, registering, or recording a false or forged instrument. Section 115 requires the prosecutor to file a motion within 10 calendar days of filing a criminal complaint or indictment for a violation of Section 115, alleging an instrument is false, forged, or both.

   The prosecutor must send written notice by certified mail to all those who may have an interest in the property. If the instrument sought to be declared void is on real property, interested parties include, but are not limited to, all parties who have recorded with the county recorder in the county where the affected property is located: a deed, lien, mortgage, deed of trust, security interest, lease, or other instrument declaring an interest in the property affected by the false or forged instrument.

   The notice must inform the parties of their right to be heard when the motion is brought and give a description of the property. The prosecutor is also required to file a notice in the county where the real property is located. If the case is adjudicated or dismissed without obtaining an order to void the false or forged instrument, the prosecution must withdraw the notice to the county within 10 calendar days. Failure to provide notice does not prevent the

prosecution from seeking the motion but is grounds for the court to grant additional time to interested parties.

The court must set a hearing for the motion no earlier than 90 calendar days from the date the motion is made. At the hearing, the prosecutor, defendant, and interested parties have a right to be heard and present information to the court. If the court determines that in the interest of justice the matter should be more appropriately settled in a civil proceeding, the court may decline to make a determination on the motion. The court may also consider any quiet title action filed prior to the hearing as an additional but not dispositive factor in making its determination. However, a final judgment previously entered in that quiet title action must be followed to the extent required by law.

This bill states that if the defendant is granted diversion, they may stipulate that the instrument was, in fact, forged or false, at the time it was filed. The district attorney, thereafter, must undertake an effort to notify any interested third parties that may be affected by the voiding of the instrument and grant them the right to be heard at a hearing. If, for whatever reason, the defendant fails to complete diversion, the agreement to void the instrument may not be used against the defendant during the subsequent criminal proceeding.

As an example, Mr. Packer purchases two acres of a four acre plot of land. But, because Mr. Packer does not want any neighbors, he records a forged deed claiming he owns all four acres of land. A few years later, however, Mr. Dunder, the actual owner of the other two acres, passes away after spending several years in a nursing home. He bequeaths all of his assets to his favorite granddaughter, Pam.

Pam wants to develop the property and takes steps to quiet title and file an updated deed reflecting her ownership in her grandfather's land. During the process, Pam's attorney, Ms. Levinson, finds Mr. Packer's deed and realizes he has recorded a forged deed for all four acres. Pam's attorney immediately reports Mr. Packer to the police, and Mr. Packer is arrested for, among other things, recording a forged document. Mr. Packer is granted diversion and is required to pay a fine and attend a class on ethical business dealings. He also agrees to stipulate the deed was forged and was never valid.

A hearing is set to determine any third party interests. Ms. Levinson notifies the district attorney of Pam's interest in the property and, after researching the parcel, the prosecutor determines Pam is the only person who has any legal claim to the property. The court agrees, and Pam may now record a deed demonstrating her ownership in the two acres. Mr. Packer pays the fine, but refuses to participate in the ethics class. He is kicked out of diversion, is later convicted of filing a false deed, and sentenced to sixteen months in state prison.

5) **Argument in Support**: According to the *California District Attorneys Association*, "SB 1307 would provide an important tool for making victims whole without negative impact on the procedural rights of a defendant charged with a crime.

"Victims of real estate fraud have long faced a daunting challenge in quieting title in the wake of the filing of a forged or fraudulent instrument. Victims who cannot afford complex civil litigation are often sidelined while their property is wrongly encumbered. Moreover, the increase of diversion programs within the criminal law in recent years puts relief further out of reach for many, and in some cases could frustrate them indefinitely.

"SB 1307 would expand the ability for the criminal courts to clear title for victims of fraud by allowing the criminal court to issue an order that will clear title without requiring a cumbersome evidentiary hearing. By allowing the court to issue a written order that the false or forged instrument be adjudged void ab initio upon stipulation of the parties, SB 1307 would give prosecutors the much-needed ability to quickly address the wrong visited upon victim of criminal fraud."

6) **Argument in Opposition**: Prior opposition no longer relevant.

7) **Related Legislation**: AB 2553 (Petri-Norris) would provide that for a person who is granted probation for certain convictions relating to crimes involving real property, probation may be extended for one additional year under specified circumstances. AB 2553 has been referred to the Senate Public Safety Committee.

8) **Prior Legislation**: AB 1698 (Wagner), Chapter 455, Statutes of 2014, provided a process to allow a judge to declare an instrument void when there is a criminal action finding that instrument forged or false.

REGISTERED SUPPORT / OPPOSITION:

Support

San Diego County District Attorney's Office (Sponsor)
California District Attorneys Association
Fidelity National Title Company
Office of the District Attorney of Orange County
Riverside County District Attorney
San Bernardino County District Attorney's Office

Opposition

California Attorneys for Criminal Justice

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

Date of Hearing: June 23, 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

---

[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

---

[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

---

[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

---

[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

---

[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 23, 2026
Counsel: Kimberly Horiuchi

ASSEMBLY COMMITTEE ON PUBLIC SAFETY
Nick Schultz, Chair

SB 1342 (Durazo) – As Amended June 16, 2026

SUMMARY: Mandates the Department of Justice (DOJ), on a monthly basis, review any arrest, regardless of whether it is a misdemeanor or felony, if the arrest occurred on or after January 1, 1973, and any associated charge was dismissed. Mandates DOJ assume there is no new arrest for purposes of automatic conviction clearance where there is no new activity for three years, as specified. Specifically, **this bill:**

1) Provides that, for the purposes of determining whether there are pending criminal charges during a review for automatic conviction record relief, the DOJ must conclude there are no pending criminal charges if at least three years have elapsed, there is no indication that any criminal proceedings have been initiated, and there is no new activity related to that arrest.

2) Provides that for the purpose of determining whether someone is serving a sentence during a review for automatic conviction record relief, the DOJ must conclude that the person is no longer serving that sentence if they are unable to determine whether a sentence is complete and at least seven years have passed since the date of conviction.

3) Requires the court, when sending any local summary criminal history information, to include notes indicating that conviction relief was granted, as specified, and to include the date the court received notice from DOJ. Requires the court to include these notes in all its local criminal history databases.

4) Prohibits the court from disclosing any information concerning a conviction granted relief pursuant to the above provisions on any conviction dismissal for individuals who serve on fire crews, individuals who successfully complete deferred entry of judgement programs, and qualified individuals who were convicted of solicitation or prostitution to any person or entity except the person whose conviction was granted relief or to a criminal justice agency.

5) Requires that upon the request of an individual granted automatic conviction record relief, the court must furnish them with a certificate of disposition confirming the court received notification and complied with a grant of relief.

6) Requires any conviction cleared by DOJ and still on a person's record be considered to be inaccurate, irrelevant, untimely, or incomplete for any purpose.

7) Deletes the October 1, 2024, operative date and the requirement of an appropriation in the annual Budget.

EXISTING LAW:

1) Defines "state summary criminal history information" as 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, but does not refer to records and data compiled by criminal justice agencies other than the Attorney General, nor does it refer to records of complaints to or investigations conducted by, or records of intelligence information or security procedures of, the office of the Attorney General and the DOJ. (Pen. Code, § 11105, subd. (a).)

2) Defines "local summary criminal history information" as the master record of information compiled by any local criminal justice agency pertaining to the identification and criminal history of any person, such as name, date of birth, physical description, dates of arrests, arresting agencies and booking numbers, charges, dispositions, and similar data about the person, but does not refer to records and data compiled by criminal justice agencies other than that local agency, nor does it refer to records of complaints to or investigations conducted by, or records of intelligence information or security procedures of, the local agency. (Pen. Code, § 13300.)

3) Requires the DOJ, on a monthly basis, to review the records in the statewide criminal justice databases, and based on information in the state summary criminal history repository, to identify individuals with arrest records that meet specified criteria and are eligible for arrest record relief. (Pen. Code, § 851.93, subd. (a)(1).)

4) Provides that a person is eligible relief pursuant to the above provision if the arrest occurred on or after January 1, 1973, and meets any of the following conditions:

    a) The arrest was for a misdemeanor offense, and the charge was dismissed.

    b) The arrest was for a misdemeanor offense, there is no indication that criminal proceedings have been initiated, at least one calendar year has elapsed since the date of the arrest, and no conviction occurred, or the arrestee was acquitted of any charges that arose, from that arrest.

    c) The arrest was for a felony offense punishable by a term of imprisonment under 8 years, there is no indication that criminal proceedings have been initiated, at least 3 calendar years have elapsed since the date of the arrest, and no conviction occurred, or the arrestee was acquitted of any charges arising, from that arrest.

    d) The arrest was for an offense punishable by imprisonment in state prison or county jail for eight years or more, there is no indication that criminal proceedings have been initiated, at least 6 years have elapsed since the date of arrest, and no conviction occurred, or the arrestee was acquitted of any charges arising from that arrest.

    e) The person successfully completed one of several specified diversion programs relating to that arrest, including a prefiling diversion program, a drug diversion program, or a pretrial diversion program, as provided. (Pen. Code, § 851.93, subd. (a)(2).)

5) Requires that the DOJ grant relief to a person who falls into one of the foregoing categories without requiring a petition or motion by a party for that relief if the relevant information is present in the DOJ's electronic record. (Pen. Code, § 851.93, subd. (b)(1).

6) Requires that the summary criminal history information include, directly next to or below the entry or entries regarding the person's arrest record, a note stating, "arrest relief granted," listing the date that the DOJ granted relief, and this section. Requires this note to be included in all statewide criminal databases with a record of the arrest. (Pen. Code, § 851.93, subd. (b)(2).)

7) Specifies that except as otherwise provided, an arrest for which arrest relief has been granted is deemed not to have occurred, and a person who has been granted arrest relief is released from any penalties and disabilities resulting from the arrest, and may answer any question relating to that arrest accordingly. (Pen. Code, § 851.93, subd. (b)(3).)

8) Requires the DOJ to submit a notice to the superior court having jurisdiction over the criminal case, informing the court of all cases for which a complaint was filed in that jurisdiction and for which relief was granted pursuant to the above provisions, and to publish on its OpenJustice web portal statistics for each county regarding the total number of arrests granted relief, as specified. (Pen. Code, § 851.93, subds. (c), (f).)

9) Imposes several conditions on record relief granted for arrests pursuant to the above, including that a district attorney may still prosecute the underlying offense within the applicable statute of limitations, that relief does not relieve the person from obligations to disclose the arrest in response to a direct question in an application to be a peace officer, and that relief does not affect a person's authorization to own or possess firearms, among others. (Pen. Code, § 851.93, subds. (d).)

10) Allows individuals who have a specified prior conviction and who have successfully participated in certain incarcerated hand crew or firehouse programs to petition the court to dismiss their convictions and seek early termination of post-conviction supervision. (Pen. Code, § 1203.4b)

11) Allows individuals who were convicted of certain crimes and sentenced to state prison terms prior to AB 109 Realignment or Proposition 47 (2014) to have their convictions dismissed, subject to specified conditions. (Pen. Code, § 1203.42.)

12) Allows individuals with a prior conviction who have completed a deferred entry of judgement program but entered the program without actual knowledge of the consequences of making a plea to petition to the court to dismiss their convictions. (Pen. Code, § 1203.43.)

13) Allows individuals convicted of solicitation or prostitution who have completed their term of probation for that conviction and who can show that the conviction was the result of their status as a victim of human trafficking to petition the court to have their conviction dismissed. (Pen. Code, § 1203.49.)

14) Requires, commencing October 1, 2024, and subject to an appropriation in the annual Budget Act, the DOJ to review the records in the statewide criminal justice databases on a monthly basis, and based on information in the state criminal history repository and the Supervised Release File, identify persons with convictions that meet the specified criteria

and are eligible for automatic conviction record relief. (Pen. Code, § 1203.425, subd. (a)(1)(A).)

15) Provides that a person is eligible for automatic conviction relief if they meet several specified conditions and the conviction meets specified criteria. (Pen. Code, § 1203.425, subd. (a)(1)(B).)

16) Requires, except as specified, DOJ to grant relief, including dismissal of a conviction, to identified persons without requiring a petition or motion for that relief if relevant information is present in DOJ's electronic records. (Pen. Code, § 1203.425, subd. (a)(2)(A).)

17) Provides, however, that the prosecuting attorney or probation department may, no later than 90 calendar days before the date of a person's eligibility for relief, file a petition to prohibit DOJ from granting automatic record conviction relief, based on a showing that granting that relief would pose a substantial threat to the public safety. (Pen. Code, § 1203.425, subd. (b)(1).)

18) Requires the state summary criminal history information for a person who has been granted this relief to include, directly next to or below the entry or entries regarding the person's criminal record, a note stating, "relief granted," listing the date that DOJ granted, the relief, and the section authorizing relief. Requires this note to be included in all statewide criminal databases with a record of the conviction. (Pen. Code, § 1203.425, subd. (a)(2)(B).)

19) Requires, commencing July 1, 2022, and subject to an appropriation in the annual Budget Act, DOJ to electronically submit a notice to the superior court having jurisdiction over the criminal case and inform the court of all cases in which a complaint was filed, and automatic conviction relief was granted. (Pen. Code, § 1203.425, subd. (a)(3)(A).)

20) Prohibits, commencing January 1, 2023, the court from disclosing information, for certain records obtained by the court, concerning a conviction granted relief pursuant to specified expungement provisions, including automatic record conviction relief, to any person or entity, in any format, except to the person whose conviction was granted relief or a criminal justice agency. (Pen. Code, § 1203.425, subd. (a)(3)(A).)

21) Provides that if probation is transferred, the DOJ shall electronically submit a notice per the above provision to both the transferring court and any subsequent receiving court, as specified. (Pen. Code, § 1203.425, subd. (a)(3)(B).)

22) Provides that if a court receives notification from the DOJ pursuant to the above provision, the court shall update its records to reflect the reduction or dismissal. Requires a court, if it receives notification that a case was dismissed pursuant to specified provisions of existing law, to update its records to reflect the dismissal and shall not disclose information concerning a conviction granted relief to any person or entity, in any format, except to the person whose conviction was granted relief or a criminal justice agency. (Pen. Code, § 1203.425, subd. (a)(3)(D).)

FISCAL EFFECT: Unknown.

COMMENTS:

1) **Sponsor**: Californians for Safety & Justice

2) **Author's Statement**: According to the author, "California made historic progress with AB 1076 (2019) and SB 731 (2022), expanding automatic record clearance for millions of residents with eligible arrests and convictions. These key reforms were designed to remove barriers to employment, housing, and opportunity by making relief automatic, accessible, and equitable. But gaps in implementation have left too many people behind, especially for those who the law should already be moving forward.

   "For example, if an individual was arrested years ago but never charged, their record might still show the arrest as "pending" because no final outcome was reported to DOJ, even though the legal system abandoned the case long ago. This unresolved label blocks individuals from the automatic relief they are entitled to. Even for individuals who do receive relief, outdated local court records create ongoing harm. If a background check pulls from these local records, as many do, an old conviction may still appear, causing someone to lose out on a job, housing, or loan. These inconsistencies between records undermine the effectiveness of record clearance and perpetuate barriers the law intended to eliminate. Another barrier is when a person tries to correct the record, there's no straightforward way to prove their case since there isn't a court-issued certificate that confirms that their record has been cleared.

   "Nationally, an estimated 70 million people (nearly one in three adults, and 8 million people in California alone) have a past arrest or conviction on their record. The vast majority of people with convictions have long finished their sentence in prison, jail, parole or probation and exited the 'deepest end' of the justice system.

   "Despite the data on recidivism, California still maintains these records until the person reaches 100 years of age. Due to the widespread usage of background checks in today's society, the availability of these records activate thousands of barriers for one quarter of the state's population resulting in chronic housing insecurities, long-term unemployment, and widespread lack of civic participation. These collateral consequences disproportionately affect Black and Latino communities and have become one of the leading drivers of multi-generational poverty.

   "SB 1342 addresses barriers by streamlining processes and ensuring that those going through the proper channels get full justice and equity that they deserve."

3) **Automatic Arrest Clearance:** Starting 2019, the Legislature passed, and the Governor signed AB 1076 (Ting), Chapter 578, Statutes of 2019, which created a process for automatic arrest record relief whereby DOJ identifies eligible arrests and automatically removes them from the person's criminal history without requiring a petition or motion for expungement. In accordance with the requirements of AB 1076, **a misdemeanor arrest** is eligible for relief if the arrest occurred after January 1, 1973, and: (a) the charge was dismissed, or (b) there is no indication that criminal proceedings have been initiated and at least one year has elapsed since the arrest, and either no conviction occurred or there was an acquittal related to that arrest.

For a felony arrest to be eligible, it must fall into one of two categories of crimes with different requirements for each: (a) the felony is punishable by **fewer than eight years**, there is no indication that criminal proceedings have been initiated, at least 3 years have elapsed since the arrest, and there was either no conviction or an acquittal related to the arrest; or (b) the felony is punishable by **eight years or more** in state prison or county jail, there is no indication that criminal proceedings have been initiated, at least 6 years have elapsed since the arrest, and there was either no conviction or an acquittal related to the arrest.

Once relief is granted, the arrest is legally deemed to have never occurred, allowing the arrestee to omit the arrest from most employment applications. However, even if relief is granted pursuant to this process, such relief does not relieve the arrestee of a requirement to disclose an arrest in an application to become a peace officer, does not limit the ability of the district attorney to prosecute the arrest within the applicable statute of limitations, and does not limit the ability of any law enforcement agency to access and use those arrest records.

Moreover, existing law makes clear that arrest record relief does not affect certain other prohibitions and responsibilities, including one's rights regarding firearm ownership and restrictions on holding public office. This bill grants possible arrest relief for any crime – misdemeanor or felony – if the charge was dismissed or if there has been no activity on the arrest for one, three, or six years depending on the crime.

4) **Automatic Conviction Clearance Relief:** AB 1076 also created a procedure in which a person could have certain convictions dismissed and withheld from disclosure without having to file a petition with the court. (Pen. Code, § 1203.425.) DOJ is required to review the records in the statewide criminal justice databases and identify any person eligible for automatic conviction record relief as specified in the law. These conditions include that the person is not required to register as a sex offender, that it does not appear, based upon information available in DOJ's records, that the person is currently serving a sentence of an offense or that there is any indication of pending criminal charges. (*Ibid.*)

   Additionally, the record may be accessed by criminal justice agencies including for purposes of pleading and proving the existence of a prior criminal conviction. (Pen. Code, § 1203.425, subd. (a)(4).) The law authorizes the prosecuting attorney or probation department, no later than 90 calendar days before the date of a person's eligibility for relief, to file a petition to prevent DOJ from granting automatic relief based on a showing that granting that relief would pose a substantial threat to the public safety. (Pen. Code, § 1203.425, subd. (b)(1).)

   Subsequent to the passage of AB 1076, AB 200 (Committee on Budget), Chapter 58, Statutes of 2022, delayed the implementation date of AB 1076 related to prohibiting dissemination of criminal records for which relief was granted to January 1, 2023. SB 731 (Durazo), Chapter 814, Statutes of 2022, expanded automatic conviction record relief to include additional felonies and delayed the effective date to July 1, 2023. AB 567 (Ting), Chapter 444, Statutes of 2023, expanded automatic conviction record relief to include misdemeanor convictions where the sentence has been successfully completed following revocation of probation and delayed implementation to July 1, 2024.

   AB 134 (Com. on Budget), Chapter 47, Statutes of 2023, delayed implementation to July 1, 2024. AB 168 (Com. on Budget), Chapter 49, Statutes of 2024, delayed the implementation of automatic conviction record relief to October 1, 2024, and extended relief to eligible individuals with convictions on or after January 1, 1973.

According to DOJ's website:

> Automatic record relief is not a dismissal, sealing or expungement of a person's state summary criminal history information record. However, automatic record relief adds a notation in the record, which is then used by the Department to determine whether those records will be disseminated to employers and other agencies for employment, licensing, or certification purposes that are mandated and authorized by law to conduct fingerprint-based background checks in accordance with Penal Code section 11105, subdivisions (k)-(p).
>
> Additionally, when a notation indicating relief is made, the Department also communicates this information to superior courts. When the superior courts receive notice that an arrest or conviction record received relief, the courts will also limit public access to those records. For any case record still retained by the court, the court shall not disclose information concerning an arrest or conviction receiving automatic record relief under Penal Code sections 851.93 and 1203.425, except as provided in Penal Code sections 851.93, subdivision (d) or 1203.425, subdivision (a)(4).[1]

Pursuant to current law, one condition for automatic conviction record relief is that, based on information available in the DOJ record, there is no indication of pending criminal charges. (Pen. Code, § 1203.425, subd. (a)(1)(B)(iii).) The current law does not provide guidance on how DOJ should proceed on older records lacking disposition data. This bill specifies that in determining whether there is a pending criminal charge, DOJ must conclude there is no indication of pending criminal charges if at least three years have elapsed with no new activity on that record.

In determining whether there is any indication pending criminal charges, DOJ would likely have to review arrest records for the individual. The three-year timeframe provided by this bill seems to align with the requirement in existing law on arrest record relief that provides that certain felony arrest records are eligible for relief if at least three years have elapsed since the date of the arrest and there is no indication that criminal proceedings have been initiated, among other things. (Pen. Code, § 851.93, subd. (a)(2)(C)(i).)

The existing law specifies that misdemeanor arrest records are eligible for relief if at least one calendar year has elapsed and there is no indication that criminal proceedings have been initiated. (Pen. Code, § 851.93, subd. (a)(2)(B).) However, the statute separately requires at least 6 years to have elapsed since the date of arrest with no indication that criminal proceedings have been initiated if the arrest was for a crime punishable by imprisonment of 8 years or more. (Pen. Code, § 851.93, subd. (a)(2)(C)(ii).)

---

[1] See https://oag.ca.gov/fingerprints/automatic-record-relief-penal-code-sections-851.93-and-1203.425 (accessed Jun. 16, 2026).

DOJ could also review information available through the California Law Enforcement Telecommunications System (CLETS), a statewide telecommunications system for the use of law enforcement agencies maintained by DOJ, which could contain information regarding charges filed against the individual if the prosecuting agency input this information into CLETS. If charges are anticipated or pending, the prosecuting agency may also file a petition with the court to prohibit DOJ from granting automatic relief prior to the person's eligibility for relief. (Pen. Code, § 1203.425, subd. (b)(1).)

Additionally, under current law as commenced July 1, 2022, and subject to an appropriation in the annual Budget Act, DOJ is required, on a monthly basis, to electronically submit a notice to the superior court having jurisdiction over the criminal case, informing the court of all cases in which a complaint was filed in that jurisdiction and in which relief was granted pursuant to this provision. Commencing on January 1, 2023, for certain records retained by the court, the court is prohibited from disclosing information about a conviction granted automatic record conviction relief to any person or entity, in any format, except to the person whose conviction was granted relief or a criminal justice agency. (Pen. Code, § 1203.425, subd. (a)(3).)

5) **Argument in Support**: According to *Californians for Safety and Justice*, "California made historic progress with AB 1076 (Chapter 578, Statutes of 2019) and SB 731 (Chapter 814, Statutes of 2022), expanding automatic record clearance for millions of Californians with eligible arrests and convictions. Implementation has revealed three critical barriers preventing some individuals from receiving or fully benefiting from this relief. SB 1342 addresses these issues by: 1) Preventing outdated pending charges from blocking record clearance. 2) Requiring local court records to be updated to match state Department of Justice (DOJ) records. 3) Establishing a clear process for individuals to obtain written proof of relief.

"Californians for Safety and Justice is a nonprofit organization working with Californians from all walks of life to replace prison and justice system waste with common sense solutions that create safe neighborhoods and save public dollars. Through policy advocacy, grassroots mobilization, public education, alliances, and support for local best practices, we promote strategies to stop the cycle of crime, reduce reliance on incarceration, and build healthy communities. Our work includes a growing statewide network of over 52,000 crime survivors and an organized constituency among the 8 million Californians living with a past conviction or record and their families.

"Under AB 1076 and SB 731, individuals are eligible for automated record clearance if they meet certain criteria, including the absence of pending charges. Many old arrests lack complete disposition data in DOJ records and are labeled "pending." These include:

- Arrests where charges were never filed.
- Cases dismissed in court.
- Cases resolved without proper reporting to DOJ.

"Because these charges appear as "pending," individuals who would otherwise qualify for relief under AB 1076 and SB 731 are blocked from receiving it—even when no prosecution ever occurred.

"Additionally, when relief is granted under AB 1076 and SB 731, the DOJ is required to update the person's state criminal record (commonly known as a RAP sheet) to show that relief has been granted. However, there is no requirement for local courts to update their own records to reflect this relief. As a result, background checks that pull from local court databases—rather than directly from DOJ—may incorrectly show old convictions, even after they have been cleared at the state level.

"Without a process to resolve old, incomplete pending charges, individuals remain ineligible for relief under AB 1076 and SB 731—even when the legal system itself abandoned the charge years ago.

"At the same time, individuals who do receive relief under AB 1076 and SB 731 may have no reliable way to prove it because local records are outdated and there is no simple, court-issued proof of relief available for them to request.

"SB 1342 makes three critical fixes to strengthen California's record clearance process: 1) Ending the use of pending charges older than 3 years—if the DOJ has received no new information—that block eligibility for record clearance. 2) Requiring local courts to update their records to match state DOJ records when relief is granted. 3) Allowing individuals to request a register of action from the court."

6) **Argument in Opposition**: According to the *Peace Officers' Research Association of California*, "SB 1342 would expand eligibility for automatic arrest record relief by removing the requirement that the underlying arrest be for a misdemeanor offense, instead allowing relief for any arrest where charges were dismissed. While PORAC supports appropriate relief for individuals who are eligible under existing law, this bill significantly broadens that relief in a manner that raises public safety and transparency concerns.

"Current law strikes a careful balance by providing relief for lower-level offenses while preserving access to information that may be relevant in more serious cases. By extending automatic relief beyond misdemeanor arrests, SB 1342 risks eliminating records that may be important for law enforcement, prosecutors, and courts when evaluating patterns of conduct, making charging decisions, or assessing
risk.

"Additionally, this expansion may limit access to information that can be critical in investigations or in protecting victims, particularly in cases where charges were dismissed for reasons unrelated to the underlying conduct. Automatically sealing or removing these records, regardless of the circumstances, may have unintended consequences for public safety and informed decision-making.

"PORAC supports policies that promote fairness and second chances. However, those policies must be balanced with the need to preserve access to relevant information for law enforcement and the justice system. SB 1342 shifts that balance too far."

7) **Related Legislation**: SB 834 (Durazo) required local summary criminal history information provided by the court include notes for any entries for which relief has been granted indicating that relief has been granted and listing the date the court received notice from DOJ. SB 834 was held on the Assembly Appropriations Committee suspense file.

8) **Prior Legislation**:

a) AB 168 (Com. on Budget), Chapter 49, Statutes of 2024, extended automatic record relief to persons convicted of crimes on or after January 1, 1973, and delayed implementation until October 1, 2024.

b) SB 763 (Durazo), of the 2023-2024 Legislative Session, would have extended automatic record relief to persons convicted of crimes on or after January 1, 1973. SB 763 failed in Senate Appropriations.

c) AB 134 (Comm. on Budget), Chapter 47, Statutes of 2023, delayed implementation of automatic records relief provisions to July 1, 2024.

d) AB 567 (Ting), Chapter 444, Statutes of 2023, required DOJ, commencing July 1, 2024, to provide confirmation that records relief was granted upon request from the subject of the record.

e) SB 731 (Durazo), Chapter 814, Statutes of 2022, expanded automatic conviction record relief to include additional felonies and delayed the effective date to July 1, 2023.

f) AB 200 (Com. on Budget), Chapter 58, Statutes of 2022, delayed the implementation date of AB 1076 related to prohibiting dissemination of criminal records for which relief was granted to January 1, 2023.

g) AB 1076 (Ting), Chapter 578, Statutes of 2019, established an automatic arrest and conviction record expungement process.

REGISTERED SUPPORT / OPPOSITION:

Support

California for Safety and Justice (Sponsor)
ACLU California Action
All of US or None (HQ)
Alliance for Boys and Men of Color
California Civil Liberties Advocacy
California Public Defenders Association
Courage California
Felony Murder Elimination Project
Friends Committee on Legislation of California
Glide
Justice2jobs Coalition
LA Defensa
Legal Services for Prisoners With Children
Local 148 Los Angeles County Public Defender's Union
Rubicon Programs
San Francisco Public Defender
San Quentin Skunkworks

Sister Warriors Freedom Coalition
Smart Justice California, a Project of Beyond Impact

Opposition

Peace Officers Research Association of California (PORAC)

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

Date of Hearing: June 23, 2026
Counsel: Mary Kennedy

ASSEMBLY COMMITTEE ON PUBLIC SAFETY
Nick Schultz, Chair

SB 1395 (Valladares) – As Amended June 15, 2026

SUMMARY: Allows a court to consider issuing a restraining order which may be valid for up to 20 years when a defendant has been convicted of a sexual offense involving a minor victim that requires sex offender registration, Specifically, **this bill**:

1) Provides that when a criminal defendant has been convicted of a sexual offense involving a minor victim that requires registration, the court shall consider using an order restraining the defendant from contact with the victim, which may be valid up to 20 years as determined by the court.

2) Provides that the court may also consider issuing an order restraining the defendant from any person who is a member of the victim's family or household.

3) Provides that it is the intent of the Legislature that the length of the restraining order be based upon the seriousness of the facts before the court, the probability of future violations, and the safety of the victim and their immediate family.

4) Provides that the protective order may be issued by the court regardless of whether the defendant is sentenced to a state prison or county jail, or whether imposition of sentence is suspended and the defendant is placed on probation.

5) Provides that the order may be modified throughout the duration of the order by the court in the county in which the order was issued.

6) Provides that the order under this section shall be submitted to the California Law Enforcement Telecommunications System (CLETS).

7) Provides that by no later than July 1, 2027, the Judicial Council shall develop forms, instructions, and rules relating to protective orders issued or extended under this bill.

8) Delays the bill's operative date to July 1, 2027.

9) Makes technical, nonsubstantive changes.

EXISTING LAW:

1) Establishes the Sex Offender Registration Act. Specifies the offenses for which conviction requires registration as a sex offender and the duration for which a person is subject to registration. (Pen. Code, § 290, subds. (a), (c), (d).)

2) Authorizes the trial court in a criminal case to issue protective orders when there is a good cause belief that harm to, or intimidation or dissuasion of, a victim or witness has occurred or is reasonably likely to occur. (Pen. Code, § 136.2, subd. (a).)

3) Provides that a person violating a protective order may be punished for any substantive offense described in provisions of law related to intimidation of witnesses or victims, or for contempt of court. (Pen. Code, § 136.2, subd. (b).)

4) Requires the court to consider issuing a protective or restraining order when the defendant is charged with a crime involving domestic violence, rape, statutory rape, spousal rape, or a crime that requires the defendant to register as a sex offender, while the matter is pending. (Pen. Code, § 136.2, subd. (e)(1).)

5) Requires the court, at the time of sentencing, to consider issuing an order restraining the defendant from any contact with a victim of the crime when the defendant has been convicted of a crime involving domestic violence, as specified, human trafficking, rape, statutory rape, spousal rape, pimping, pandering, a gang-related offense, elder abuse, stalking, a sexual offense involving a minor victim, or a crime that requires the defendant to register as a sex offender. Provides that the order may be valid for up to 10 years, as determined by the court. (Pen. Code, §§ 136.2, subd. (i)(1); 368, subd. (l); 646.9, subd. (k); 1201.3, subd. (a).)

6) Provides that the post-conviction protective order may be issued by the court regardless of whether the defendant is sentenced to the state prison or a county jail, whether the defendant is subject to mandatory supervision, or whether imposition of sentence is suspended and the defendant is placed on probation. Provides that the order may be modified by the sentencing court in the county in which it was issued throughout the duration of the order. (Pen. Code, § 136.2, subd. (i)(1).)

7) Provides that the duration of a restraining order issued by the court be based upon the seriousness of the facts before the court, the probability of future violations, the safety of a victim and the victim's immediate family, and any information provided to the court, as specified. (Pen. Code, § 136.2, subd. (i)(1).)

8) Authorizes a post-conviction restraining order to include provisions for electronic monitoring for up to one year from the date of the order. (Pen. Code, § 136.2, subd. (i)(3).)

9) Requires the court, at the time of sentencing, to consider issuing an order restraining the defendant from any contact with a percipient witness to a crime, upon clear and convincing evidence of witness harassment, when the defendant was convicted of a crime involving domestic violence, rape, statutory rape, spousal rape, gang activity, or a crime requiring sex offender registration. (Pen. Code, § 136.2, subd. (i)(2).)

10) Prohibits a person who is subject to a protective order from owning, possessing, purchasing, attempting to purchase or receive, a firearm while the protective order is in effect. Requires the court to order a person subject to the protective order to relinquish ownership or possession of any firearms. (Pen. Code, § 136.2, subd. (d).)

11) Requires the court, at the time of sentencing, to consider issuing an order restraining the defendant from contact with a victim of the crime when the defendant has been convicted of

domestic violence involving corporal injury resulting in a traumatic condition. Provides that the order may be valid for up to 15 years, as determined by the court. Authorizes the issuing court, upon a written petition by the prosecuting attorney, defendant, or victim, to modify or terminate a protective order for good cause provided the prosecuting attorney, defendant, and victim are notified at least 15 days before the hearing on the petition. (Pen. Code, § 273.5, subd. (j)(1) & (2).)

12) Provides that a willful and knowing violation of a criminal protective order constitutes contempt of court, a misdemeanor, punishable by imprisonment in a county jail for up to one year or a fine of $1,000, or both. (Pen. Code, §§ 166, subds. (a)(4), (c)(4); 273.6, subd. (a).)

13) Authorizes a court to issue civil harassment restraining orders for up to five years upon a showing of clear and convincing evidence of unlawful harassment. Provides that the order may be renewed, upon the request of a party, for a duration of no more than five additional years, without a showing of any further harassment since the issuance of the original order. Provides that an order that fails to state an expiration date on the face of the form creates an order with a duration of three years. (Civ. Pro. Code, § 527.6, subds. (a) & (j).)

14) Authorizes a court to issue a civil domestic violence restraining order enjoining a party from, among other things contacting or coming within a specified distance of a specified person. Provides that the order may have a duration for up to five years, and may be renewed upon a request of a party, either for five years or permanently, without a showing of any further abuse since the issuance of the order. Provides that failure to state the expiration date on the face of the order creates an order with a duration of three years. (Fam. Code, §§ 6320, subd. (a); 6345, subds. (a), (c).)

15) Requires a peace officer, when there are both civil and criminal orders regarding the same parties, and neither an emergency protective order that has precedence in enforcement nor a no-contact order has been issued, to enforce the criminal order issued last. (Fam. Code, § 6383, subd. (h)(2).)

FISCAL EFFECT: Unknown

COMMENTS:

1) **Sponsor:** CA Commission on The Status of Women and Girls

2) **Author's Statement:** According to the author: "SB 1359 will expand critical protections for survivors from their abusers by allowing judges the discretion to issue a maximum 20 year injunction at the time of sentencing for a felony sex offense against a minor victim. Current California law only provides temporary relief for survivors and forces them to relive their trauma in order to keep these basic protections. Expanding the maximum number of years that a restraining order can be in place, allows victims of crimes from their childhood to have basic protections into early adulthood without having to face their abuser."

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

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

If the defendant (the person accused of committing the crime) is arrested and charged, a judge can issue a criminal protective order (CPO) to protect victims and witnesses, particularly during the pendency of the case (as with Penal Code section 136.2). EPOs and CPOs are protective orders. Protective orders and "temporary restraining orders or TROs" are often used interchangeably. A victim may also be able to file their own moving papers to request a protective or restraining order. A restraining order can include some of the same orders as an EPO or CPO, like ordering the defendant to stay away from the victim. But in restraining order cases filed by a victim (instead of law enforcement), additional protections may be available. A victim can have a restraining order and an EPO or CPO at the same time as one is issued on an emergency basis and one is issued for a longer period of time. (See The consequences of having the court issue a protective order against a person can be severe. For example, the protective order may prohibit the defendant from being within a certain distance of the person named in the order, implicating the defendant's right to travel. Depending on the facts, such an order may implicate an individual's property interests by forcing the person to vacate their own home. A protective order may also affect a person's immigration status given that a violation of a protective order is a deportable offense. (8 U.S.C. § 1127(a)(2)(E)(ii).) Additionally, the restrained person will generally not be able to purchase, receive, own, or possess a firearm and will have to turn in, sell, or transfer any firearms the person has, and will not be able to buy, receive, own, or possess a firearm while the order is in effect. (Pen. Code, §§ 29825, 136.2, subd. (d).) Fam. Code, § 6320, subd. (a); Judicial Branch of California, California Courts Self-Help Guide, Guide to Protective Orders, p. 1-2.)1

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

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

Simple violation of a protective or restraining order is a misdemeanor. (See Pen. Code, § 166, subd. (a)(4); Pen. Code, § 273.6, subd. (a).) If a person violates a protective or restraining order issued in a domestic violence case and injury results, that person may be

sentenced to a minimum of 30 days and a maximum of one year in county jail – in addition to whatever the defendant receives for any possible assaultive or threatening conduct. (See Pen. Code, § 273.6, subd. (b).) Any criminal conviction also requires proof beyond a reasonable doubt that the defendant was aware of the protective order, knew what they were not allowed to do, and violated the order anyway. It is not the most direct method for ensuring a parolee does not re-contact a victim or witness.

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

4) **Effects of Restraining Orders:** The consequences of having the court issue a restraining order against a person can be very severe. For example, the restraining order may prohibit the defendant from being within a certain distance of the person named in the order, thereby implicating the defendant's right to travel. Depending on the facts, such an order may implicate an individual's property interests by forcing him or her to vacate his or her own home. A restraining order may also affect a person's immigration status. A violation of a protective order is a deportable offense. Section 237(a)(2)(E)(ii) of the Immigration and Nationality Act (INA) states: "Any alien who at any time after entry is enjoined under a protection order issued by a court and whom the court determines has engaged in conduct that violates the portion of a protection order that involves protection against credible threats of violence, repeated harassment, or bodily injury to the person or persons for whom the protection order was issued is deportable."

5) **Effect of This Bill:** This bill represents a departure from existing law with respect to post-conviction protective orders by creating a new type of post-conviction protective order that significantly lengthens the duration of time allowed for a protective order compared to existing protective orders.

Under existing law, a court can issue a criminal protective order lasting up to 10 years in cases for which the defendant was convicted of specified crimes (i.e., some domestic violence offenses, human trafficking, gang activity, rape, pimping, pandering, offenses requiring sex offender registration, elder abuse, stalking, and a sexual offense involving a minor victim). AB 2308 (Davies), Chapter 649, Statutes of 2024, extended the length of time that a criminal protective order could be imposed in cases where the defendant was convicted of domestic violence involving corporal injury resulting in a traumatic condition from 10 years to 15 years. (Pen. Code, § 273.5, subd. (j).)

Under current law, the court has the discretion to issue a post-conviction order for up to 10 or 15 years depending on the offense for which the defendant was convicted. (Pen. Code, §§ 136.2, subd. (i)(1), 243.5, subd. (j), 368, subd. (l), 646.9, subd. (k), 1201.3, subd. (a).) Authorizing statutes do not specify a minimum duration for the order. (*Ibid.*)

This bill requires a court to consider issuing a criminal protective order when a defendant has

been convicted of a sexual offense involving a minor that requires sex offender registration. Although the court is not required to issue a criminal protective order under the provisions of this bill, if the court does decide to issue one, the bill provides that a protective order issued under its provisions is valid for up to 20 years. The court may also consider issuing an order restraining the defendant from any person who is a member of the victim's family or household. The court also retains jurisdiction to modify the order during its duration.

6) **Argument in Support:** According to the *California Commission on the Status of Women and Girls*, "For nearly 60 years, CCSWG has advocated for the rights of women and girls, working to eliminate systemic inequities designed to impact more than 19.6 million residents of the state of California. Our mission encompasses promoting equality and justice through research, policy development, education, outreach, and strategic partnerships.

"Many victims of domestic violence only receive short term protective measures and must face their perpetrator in court each time their previous order nears expiration. This can lead victims to experience recurrent trauma and immense stress each time they wish to extend these measures against their abusers. SB 1395 will mitigate these challenges by creating longer, and broader protections at the discretion of a judge to further protect and advocate for the rights of survivors."

7) **Argument in Opposition:** According to *ACLU California Action*: "While we appreciate your intention of protecting survivors of sexual violence, we do not believe this bill is necessary given the sufficiency of existing law. Further, we are concerned the bill raises constitutional concerns. "

"Current law already allows courts to restrain Penal Code 290 registrants from contact with survivors for up to 10 years. (Penal Code, §136.2(i)(1).) When enacting this law, the Legislature specifically intended that the duration of any restraining order issued under the law be based, in part, on the probability of future violations, and on the safety of a survivor and the survivor's immediate family. If a restraining order is in fact needed to protect a survivor beyond the initial 10 years, current law allows for appropriate extensions. The survivor can pursue a civil protective order, valid for up to five years, which can be renewed for up to another five years, or modified or terminated as appropriate. (Code of Civil Procedure, §527.6(j).) "

"We are generally wary of restraints on individuals' liberty based on predictions of future criminality. Any government-imposed restraint must be narrowly tailored to achieve its purpose, utilizing the least restrictive means necessary. While it is always difficult to predict the likelihood that an individual will commit a future crime, current law attempts to address this difficulty by imposing an upper limit of 10 years for a criminal protective order. Although 10 years is arguably too long without accurately assessing the ongoing need for a protective order, it is certainly more tailored than the 20-year order SB 1395 would allow for. Imposing such protective orders would create circumstances in which individuals who have served their sentences, satisfied their supervision, and are otherwise living law-abiding lives, are subject to the threat of prosecution because of a 20-year restraining order. Instead of SB 1395's approach, we encourage the Legislature to consider protective order schemes that ensure individual cases undergo appropriate judicial review to determine the ongoing need for the protective order."

8) **Related Legislation:** AB 2261 (Dixon) would authorize the court, upon conviction of specified offenses, including domestic violence and registerable sex offenses, to consider issuing an order restraining a defendant from contact with any person who is a member of the victim's family or household or any other person if there is competent evidence that the individual is a

victim of those specified offenses. AB 2261 is similar to and has some overlap but does not directly conflict with this bill because it amends a different code section. AB 2261 has been referred to the Senate Public Safety Committee.

9) **Prior Legislation:**

a) AB 285 (Ramos), of the 2025-2026 Legislative Session, would have required a court, when imposing a state prison sentence on a defendant convicted of domestic violence or a sex offense, to issue a temporary criminal protective order against the same identified victim or victims from an original witness intimidation protective order, as specified, for a maximum period of 180 days. AB 285 was held in suspense in the Assembly Appropriations Committee.

b) SB 421 (Valladares), of the 2025-2026 Legislative Session, would have allowed a court to issue a permanent protective order restraining a defendant from any contact with the victim if the defendant has been convicted of any serious or violent felony, as defined, or any felony requiring registration as a sex offender. SB 421 failed passage in the Senate Public Safety Committee.

c) AB 264 (Low), Chapter 270, Statutes of 2017, required the court to consider issuing a restraining order for up to 10 years in gang cases, and expands the court's authority to issue post-conviction restraining orders to cover witnesses to the qualifying crimes.

d) SB 352 (Block), Chapter 279, Statutes of 2015, required the court to consider issuing a restraining order for up to 10 years when a defendant is convicted for an offense involving abuse of an elder or a dependent adult, regardless of the sentence imposed.

e) AB 307 (Campos), Chapter 291, Statutes of 2013, allowed a court to issue a protective order for up to 10 years when a defendant is convicted of specified sex crimes, regardless of the sentence imposed.

f) SB 723 (Pavley), Chapter 155, Statutes of 2011, allowed a court to issue a protective order for up to 10 years when a defendant is convicted for an offense involving domestic violence, regardless of the sentence imposed.

g) SB 834 (Florez), Chapter 627, Statutes of 2010, allowed a court to issue a protective order for up to 10 years in sex cases involving a minor victim.

h) AB 289 (Spitzer), Chapter 582, Statutes of 2007, allowed a court to issue a protective order for 10 years upon a defendant's conviction for stalking

REGISTERED SUPPORT / OPPOSITION:

Support

CA Commission on the Status of Women and Girls (Co-Sponsor)
Arcadia Police Officers' Association
Brea Police Association
Burbank Police Officers' Association
California Association of School Police Chiefs

California Coalition of School Safety Professionals
California District Attorneys Association
California Narcotic Officers' Association
California Police Chiefs Association
California Reserve Peace Officers Association
California State Sheriffs' Association
Chief Probation Officers' of California (CPOC)
Claremont Police Officers Association
Corona Police Officers Association
Crime Victims United
Culver City Police Officers' Association
Fullerton Police Officers' Association
Los Angeles School Police Management Association
Los Angeles School Police Officers Association
Murrieta Police Officers' Association
Newport Beach Police Association
Orange County Sheriff's Department
Palos Verdes Police Officers Association
Placer County Deputy Sheriffs' Association
Pomona Police Officers' Association
Riverside Police Officers Association
Riverside Sheriffs' Association

Opposition

ACLU California Action
California Attorneys for Criminal Justice
California Public Defenders Association
Ella Baker Center for Human Rights
Initiate Justice
Local 148 Los Angeles County Public Defender's Union
San Francisco Public Defender

Analysis Prepared by: Mary Kennedy / PUB. S. / (916) 319-3744

Date of Hearing: June 23, 2026
Deputy Chief Counsel: Stella Choe

ASSEMBLY COMMITTEE ON PUBLIC SAFETY
Nick Schultz, Chair

SB 1401 (Stern) – As Introduced February 20, 2026

As Proposed to be Amended in Committee

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 or its designee to report to the court regarding relevant medical information, including but not limited to, prior treatment interactions with the defendant, for the purpose of determining eligibility for behavioral health services and prohibits the use of this information for any other purpose.

4) Requires the above information provided to the court to be kept confidential and after the disposition of the case placed under seal and not be subject to disclosure to any person or entity.

5) Makes conforming changes in the misdemeanor IST statute regarding sharing of confidential information with the court for purposes of determining eligibility for behavioral health services.

6) 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 Department of State Hospital (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 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 at high rates 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 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.
>
> . . . .
>
> "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.)
>
> 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

---

[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.)

review, trial courts should be afforded maximum leeway in fitting the punishment to the offender." (*People v. Dorsey* (1972) 28 Cal.App3d 15, 18.)

(*People v. Williams*, *supra*, 30 Cal.3d at 479-482.)

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.)

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 and may avoid delays in referrals to appropriate treatment options, including conservatorship, CARE Court, and AOT, which may limit the court's ability to make timely and informed decisions about patient care

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).) Adding this change to the misdemeanor statute would align the scope of authority that the judge has in both types of cases.

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

---

[2] SB 1400 (Stern), Ch. 647, Stats. 2024.
[3] SB 1323 (Menjivar), Ch, 646, Stats. 2024.

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, in print, 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.

   Existing law within the misdemeanor IST statute authorizes 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, the goal of this bill is to align the misdemeanor and felony IST statutes and thus the bill, in print, incorporates this same language into the felony IST statute.

   In order to address opposition concerns, the author is planning to amend the bill in committee to revise this sharing provision to instead provide that the county behavioral health agency or its designee may report to the court regarding relevant medical information, including, but not limited to, prior treatment interactions with the defendant, for the purpose of determining eligibility for behavioral health services. The information shall not be used for any other purpose. The information shall be kept confidential and after the disposition of the case shall be placed under seal and shall not be subject to disclosure to any person or entity.

   With the goal of aligning both the felony IST statute and the misdemeanor IST statute in mind, the amendments would also revise the sharing provision in the misdemeanor IST statute with this same language.

---

[4] SB 27 (Umberg), Chapter 528, Statutes of 2025.

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.

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

---

[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.

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."

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's Office
National Alliance on Mental Illness (NAMI-CA)
Riverside County District Attorney
Ventura County District Attorney's Office

Opposition

ACLU California Action
California Public Defenders Association
Disability Rights California
Local 148 Los Angeles County Public Defender's Union

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

AMENDMENTS TO SENATE BILL NO. 1401

Amendment 1

On page 5, in line 26, strike out "and jail medical provider", strike out line 27, in line 28, strike out "information with the court," and insert:

or its designee may report to the court regarding relevant confidential medical information,

Amendment 2

On page 5, in line 28, after "prior" insert:

treatment

Amendment 3

On page 5, in line 29, strike out "and treatment of"

Amendment 4

On page 5, in line 30, strike out "the likelihood of"

Amendment 5

On page 5, in line 31, strike out "and programs"

Amendment 6

On page 5, in line 31, after the period insert:

This confidential information shall not be used for any other purpose. The information shall be kept confidential and after the disposition of the case shall be placed under seal and shall not be subject to disclosure to any person or entity.

Amendment 7

On page 8, in line 17, strike out the second "be"

Amendment 8
On page 12, in line 1, after "pursuant" insert:

to

Amendment 9
On page 30, in line 13, strike out "and jail medical", strike out line 14, in line 15, strike out "information with the court," and insert:

or its designee may report to the court regarding relevant confidential medical information,

Amendment 10
On page 30, in line 15, after "prior" insert:

treatment

Amendment 11
On page 30, in line 16, strike out "and treatment of"

Amendment 12
On page 30, in line 17, strike out "likelihood of"

Amendment 13
On page 30, in line 18, strike out "and programs"

Amendment 14
On page 30, in line 18, after the period insert:

This confidential information shall not be used for any other purpose. The information shall be kept confidential and after the disposition of the case shall be placed under seal and shall not be subject to disclosure to any person or entity.