California State Assembly

PUBLIC SAFETY

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AGENDA

Tuesday, June 30, 2026
8:30 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 239	Arreguín	Crimes: criminal threats.
2.	SB 356	Jones	Elderly parole program.
3.	SB 758	Umberg	Public health: nitrous oxide.
4.	SB 874	Weber Pierson	Medi-Cal: behavioral health treatment workgroup.
5.	SB 884	Umberg	Elections in 2026 through 2029.(Urgency)
6.	SB 907	Archuleta	Driving under the influence and other driving offenses: comprehensive reform.
7.	SB 936	Blakespear	Nitrous oxide: sales.
8.	SB 948	Arreguín	Firearms: safety certificates.
9.	SB 962	Archuleta	Emergency vehicles: blue warning lights.
10.	SB 1056	Grayson	Criminal procedure.
11.	SB 1105	Pérez	Law enforcement.
12.	SB 1111	Ashby	Digital replicas.
13.	SB 1157	Archuleta	Juveniles: secure youth treatment facilities: less restrictive programs.
14.	SB 1203	Smallwood-Cuevas	Security services.
15.	SB 1208	Grayson	Money laundering: digital financial assets.
16.	SB 1266	Stern	Crimes: theft.
17.	SB 1330	Arreguín	Assault and battery: utility workers.

18.	SB 1338	Jones	Vehicles: repossession.
19.	SB 1354	Archuleta	The military: defense of the state.
20.	SB 1365	Allen	Unlawful business practices: price gouging.
21.	SB 1373	Grove	Mental health diversion.
22.	SB 1379	Cervantes	County of Riverside: separation of county offices: in-custody reports.
23.	SB 1418	Cervantes	Preservation of election materials.
24.	SB 1427	Public Safety	Public safety omnibus.
25.	SB 1446	Public Safety	Incarcerated persons: release and parole.

BILLS REFERRED TO COMMITTEE PURSUANT TO A.R. 77.2.

26.	SB 493	Becker	Unlawful business practices: price gouging.

Date of Hearing: June 30, 2026
Deputy Chief Counsel: Stella Choe

ASSEMBLY COMMITTEE ON PUBLIC SAFETY
Nick Schultz, Chair

SB 239 (Arreguín) – As Amended June 17, 2026

As Proposed to be Amended in Committee

SUMMARY: Authorizes the court to consider, as a factor in aggravation in sentencing a person for making criminal threats, that the defendant willfully threatened to commit a crime that would result in the death or great bodily injury of an elections official of a city, county, city and county, or public district, or an elected local agency official.

EXISTING LAW:

1) States that any person who willfully threatens to commit a crime which will result in death or great bodily injury to another person, with the specific intent that the statement, made verbally, in writing, or by means of an electronic communication device, is to be taken as a threat, even if there is no intent of actually carrying it out, which, on its face and under the circumstances in which it is made, is so unequivocal, unconditional, immediate, and specific as to convey to the person threatened, a gravity of purpose and an immediate prospect of execution of the threat, and thereby causes that person reasonably to be in sustained fear for their own safety or for their immediate family's safety, shall be punished by imprisonment in the county jail not to exceed one year, or by imprisonment in the state prison. (Pen. Code, § 422, subd. (a).)

2) Provides that in sentencing a person convicted of making felony criminal threats, the court may consider, as a factor in aggravation, that the defendant willfully threatened to commit a crime that would result in death or great bodily injury of a person the defendant knew was a state constitutional officer, a Member of the Legislature, or a judge or court commissioner. (Pen. Code, § 422, subd. (b).)

3) Makes a felony violation of Penal Code section 422 a "serious felony," and therefore a "strike" for purposes of Three Strikes sentencing. (Pen. Code, § 1192.7, subd. (c).)

4) States that any person who with intent to annoy, telephones another or contacts him or her by means of an electronic device, and threatens to inflict injury on the person or the person's family, or to the person's property is guilty of a misdemeanor. (Pen. Code, § 653m, subd. (a).)

5) Provides that every person who attempts, by means of any threat or violence, to deter or prevent an executive officer from performing any duty imposed upon the officer by law, or who knowingly resists, by the use of force or violence, the officer, in the performance of his or her duty, is punishable as an alternate felony-misdemeanor. (Pen. Code, § 69, subd. (a).)

6) States that every person who knowingly and willingly threatens the life of, or threatens serious bodily harm to, any elected public official, county public defender, county clerk, exempt appointee of the Governor, judge, or Deputy Commissioner of the Board of Prison Terms, or the staff, immediate family, or immediate family of the staff of any elected public official, county public defender, county clerk, exempt appointee of the Governor, judge, or Deputy Commissioner of the Board of Prison Terms, with the specific intent that the statement is to be taken as a threat, and the apparent ability to carry out that threat by any means, is guilty of a public offense. (Pen. Code, § 76, subd. (a).)

7) States that no person shall knowingly post the home address or telephone number of any elected or appointed official, or of the official's residing spouse or child, on the internet knowing that person is an elected or appointed official and intending to cause imminent great bodily harm that is likely to occur or threatening to cause imminent great bodily harm to that individual. Punishes the crime as a misdemeanor, or a felony depending on the circumstances. (Pen. Code, § 76.5.)

8) States that any person who commits assault upon specified public officials or attempts to commit murder against any of those specified officials in retaliation for or to prevent the performance of the victim's official duties, shall be punished by a felony, as specified. (Pen. Code, § 217.1.)

9) Provides that when a judgment of imprisonment is to be imposed and the statute specifies three possible terms, the court shall in its sound discretion order imposition of a sentence not to exceed the middle term, except as specified. (Pen. Code, § 1170, subd. (b)(1).)

10) Provides that the court may impose a sentence exceeding the middle term only when there are circumstances in aggravation of the crime that justify the imposition of a term of imprisonment exceeding the middle term and the facts underlying those circumstances have been stipulated to by the defendant or have been found true beyond a reasonable doubt at trial by the jury or by the judge in a court trial. (Pen. Code, § 1170, subd. (b)(2).)

11) States that notwithstanding the presumption for the middle term, and unless the court finds that the aggravating circumstances outweigh the mitigating circumstances and that imposition of the lower term would be contrary to the interests of justice, the court shall order imposition of the lower term if the defendant experienced psychological, physical, or childhood trauma, is a youth (under age 26), or is or has been a victim of domestic violence or human trafficking. (Pen. Code, § 1170, subd. (b)(6).)

12) Enumerates circumstances in aggravation, relating both to the crime and to the defendant, as specified. In addition, any other factors statutorily declared to be circumstances in aggravation or that reasonably relate to the defendant or the circumstances under which the crime was committed can be considered in aggravation. (Cal. Rules of Court, rule 4.421.)
13) Enumerates circumstances in mitigation, relating both to the crime and to the defendant, as specified. In addition, any other factors statutorily declared to be circumstances in mitigation or that reasonably relate to the defendant or the circumstances under which the crime was committed can be considered. (Cal. Rules of Court, rule 4.423.)

14) Defines "local agency official" to mean any member of a local agency legislative body and any elected local agency official. (Gov. Code, § 53237, subd. (b).)

15) Prohibits any state or local agency from publicly posting the home address, telephone number, or the name and assessor parcel number associated with the home address of any elected or appointed official on the internet without first obtaining the written permission of that individual. (Gov. Code, § 7928.205, subd. (a).)

FISCAL EFFECT: Unknown.

COMMENTS:

1) **Sponsor**: Author-sponsored

2) **Author's Statement**: According to the author, "In recent years, election officials and elected local agency officials (County Supervisors, Mayors, Council members, special district board members) across the U.S. have reported increased threats, harassment, and intimidation. Sometimes these threats have sadly escalated to violence and death. Last year, the Legislature passed, and the Governor signed into law AB 352, which amended Penal Code Section 422. The bill allows the court to consider as part of felony sentencing of the criminal threats statute as a factor in aggravation, that the defendant willfully threatened to commit a crime that could result in the death or great bodily injury of a judge or court commissioner, a state constitutional officer, or member of the Legislature. The reason for this change was the increase in threats against judges and state elected officials and the fear and intimidation caused.

   "SB 239 would amend Penal Code Section 422 to also include election officials and local agency officials. SB 239 recognizes that threats against election officials and local public officials are not just attacks on individuals, they are attacks on the democratic institutions and public services that Californians rely on every day. This bill promotes public safety, strengthens confidence in our democratic process and recognizes the unique harm caused when threats are used to interfere with the functioning of government."

3) **Criminal Threats**: Existing law punishes criminal threats. (Pen. Code, § 422.) A law that restricts speech has First Amendment implications. The First Amendment to the United States Constitution states: "Congress shall make no law . . . abridging the freedom of speech. . . ." This fundamental right is applicable to the states through the due process clause of the Fourteenth Amendment. (*Aguilar v. Avis Rent A Car System, Inc.* (1999) 21 Cal.4th 121, 133-134, citing *Gitlow v. People of New York* (1925) 268 U.S. 652, 666.) Article I, section 2, subdivision (a) of the California Constitution provides that: "Every person may freely speak, write and publish his or her sentiments on all subjects, being responsible for the abuse of this right. A law may not restrain or abridge liberty of speech or press."

   While these guarantees are stated in broad terms, "the right to free speech is not absolute." (*Aguilar v. Avis Rent A Car System, Inc.*, *supra*, 21 Cal.4th at p. 134, citing *Near v. Minnesota* (1931) 283 U.S. 697, 708; and *Stromberg v. California* (1931) 283 U.S. 359.) As the United States Supreme Court has acknowledged: "Many crimes can consist solely of spoken words, such as soliciting a bribe (Pen. Code, § 653f), perjury (Pen. Code, § 118), or making a terrorist threat (Pen. Code, § 422)."

Content-based restrictions on speech are presumptively invalid (*R.A.V. v. St. Paul* (1992) 505 U.S. 377, 382), however, courts have upheld restrictions on content-based speech when the speech is "'of such slight social value as a step to truth that any benefit that may be derived from them is clearly outweighed by the social interest in order and morality.' Thus, for example, a State may punish those words 'which by their very utterance inflict injury or tend to incite an immediate breach of the peace.'" (*In re J.M.* (2019) 36 Cal.App.5th 668, 674, citing *Virginia v. Black* (2003) 538 U.S. 343, 358–359.)

True threats are not protected by the First Amendment. (*In re M.S.* (1995) 10 Cal.4th 698.) Existing Penal Code section 422 has been found to be constitutional because it is narrowly tailored to apply only to true threats, which is defined as a threat "to commit a crime which will result in death or great bodily injury to another person . . . which, on its face and under the circumstances in which it is made, is so unequivocal, unconditional, immediate, and specific as to convey to the person threatened, a gravity of purpose and an immediate prospect of execution of the threat." (*People v. Toledo* (2001) 26 Cal.4th 221, 233.)

In order to convict a person under the criminal threat statute, Penal Code section 422, the prosecutor must prove the following:

- That the defendant willfully threatened to commit a crime which will result in death or great bodily injury to another person;
- That the defendant made the threat;
- That the defendant intended that the statement be taken as a threat, even if there is no intent of actually carrying it out;
- That the threat was so unequivocal, unconditional, immediate, and specific as to convey to the person threatened a gravity of purpose and an immediate prospect of execution of the threat;
- That the threat actually caused the person threatened to be in sustained fear for his or her own safety or for his or her immediate family's safety; and,
- That the threatened person's fear was reasonable under the circumstances. (Pen. Code, §422; CALCRIM No. 1300; see also *People v. Toledo* (2001) 26 Cal.4th 221, 227-228.)

Penal Code section 422 applies to all criminal threats which will result in death or great bodily injury regardless of the person threatened, the location, or the exact type of violence that is threatened.

The crime of criminal threats is punishable as either a misdemeanor or a felony. (Pen. Code, § 422.) When a criminal threats conviction is punished as a felony, it is also a serious felony for purposes of enhanced punishment under the Three Strikes Law (Pen. Code, 1192.7, subd. (c)(38)) and the five-year prison enhancement for prior serious felony convictions (Pen. Code, § 667). Additionally, it triggers credit earning limitations. (Pen. Code, § 1170.12.) (See also *People v. Moore* (2004) 118 Cal.App.4th 74.)

Last year, Penal Code section 422 was amended to add that in sentencing a person convicted of making felony criminal threats, the court may consider, as a factor in aggravation, that the defendant willfully threatened to commit a crime that would result in death or great bodily injury of a person the defendant knew was a state constitutional officer, a Member of the Legislature, or a judge or court commissioner. (AB 352 (Pacheco), Ch. 554, Stats. 2025; Pen. Code, § 422, subd. (b).) The new provision went into effect January 1 of this year. This bill would greatly expand who this provision applies to by adding an elections official of a city, county, city and county, or public district, or a local agency official, as defined in subdivision (b) of Government Code section 53237. That section defines "local agency official" to mean "any member of a local agency legislative body and any elected local agency official."

Because the definition of "local agency official" includes such a broad category of persons, many of which may not be well-known to the public, this bill, as proposed to be amended in committee, will limit local agency officials to *elected* local agency officials, which would include mayors, city council members, county board of supervisors, and other local officials who are elected.

Notably, unlike some of the existing offenses that require specifically targeting or retaliating against judges or elected officials[1], the aggravating factor provision in Penal Code Section 422 only requires that the defendant knew the person threatened is a state constitutional officer, a Member of the Legislature, or a judge or court commissioner, not that they were motivated in any way by that person's position.

4) **Determinate Sentencing and Factors in Aggravation:** California's sentencing scheme is, for the most part, determinate – it is referred to as the determinate sentencing law (DSL). (Pen. Code, § 1170, subd. (b)(1).) Any person convicted of a felony is sentenced to one of three sentences referred to as the "triad." For instance, a person convicted or a felony offense that may be charged as either a misdemeanor or felony (known as a "wobbler") shall be sentenced to 16 months, two years, or three years in either county jail or state prison, unless the statute specifies another sentence. Burglary of a home or occupied residence, for example, may be sentenced to two, three, or four years. The court must consider factors in aggravation and those factors must be proven to the trier of fact beyond a reasonable doubt before imposing the upper term. (Pen. Code, § 1170, subd. (b)(2) & (6).)

The Sixth Amendment right to a jury trial applies to any factual finding, other than that of a prior conviction, necessary to warrant any sentence beyond the presumptive maximum. (*Apprendi v. New Jersey* (2000) 530 U.S. 466, 490; *Blakely v. Washington* (2004) 524 U.S. 296, 301, 303-04.) Prior to 2007, the DSL required imposition of the middle term. However, the Supreme Court, following its ruling in *Blakely* upended the way California sentenced a defendant convicted of a felony.

In *Cunningham v. California* (2007) 549 U.S. 270, the United States Supreme Court held California's Determinate Sentencing Law (DSL) violated a defendant's right to trial by jury by placing sentence-elevating fact findings within the judge's province. (*Id.* at p. 274.) The DSL authorized the court to increase the defendant's sentence by finding facts not reflected

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[1] See Penal Code §§ 69, 71, 76, 217.1.

in the jury verdict. Specifically, the trial judge could find factors in aggravation by a preponderance of evidence to increase the defendant's sentence from the presumptive middle term to the upper term and, as such, was constitutionally flawed. The Court stated, "Because the DSL authorizes the judge, not the jury, to find the facts permitting an upper term sentence, the sentence cannot withstand measurement against our Sixth Amendment precedent." (*Id.* at p. 293.)

The Supreme Court provided direction as to what steps the Legislature could take to address the constitutional infirmities in the DSL:

> "As to the adjustment of California's sentencing system in light of our decision, the ball . . . lies in [California's] court. We note that several States have modified their systems in the wake of *Apprendi* and *Blakely* to retain determinate sentencing. They have done so by calling upon the jury - either at trial or in a separate sentencing proceeding - to find any fact necessary to the imposition of an elevated sentence. As earlier noted, California already employs juries in this manner to determine statutory sentencing enhancements. Other States have chosen to permit judges genuinely to exercise broad discretion . . . within a statutory range, which, everyone agrees, encounters no Sixth Amendment shoal. California may follow the paths taken by its sister States or otherwise alter its system, so long as the State observes Sixth Amendment limitations declared in this Court's decisions." (*Cunningham, supra*, 549 U.S. at pp. 293-294.)

Following *Cunningham*, the Legislature amended the DSL, specifically Penal Code sections 1170 and 1170.1, to make the choice of the lower, middle, or upper prison term one within the sound discretion of the court. (See SB 40 (Romero), Ch. 3, Stats. 2007.) This approach was embraced by the California Supreme Court in *People v. Sandoval* (2007) 41 Cal.4th 825, 843-852. The new procedure removes the mandatory middle term and the requirement of weighing aggravation against mitigation before imposition of the upper term.

In 2021, the Legislature enacted SB 567 (Bradford), Chapter 731, Statutes of 2021 which requires that any aggravating factors, except for prior convictions, relied upon by the court to impose a sentence exceeding the middle term either for a criminal offense or for an enhancement be submitted to the trier of fact and found to be true, or be admitted by the defendant. "The court may impose a sentence exceeding the middle term only when there are circumstances in aggravation of the crime that justify the imposition of a term of imprisonment exceeding the middle term and the facts underlying those circumstances have been stipulated to by the defendant or have been found true beyond a reasonable doubt at trial by the jury or by the judge in a court trial." (Pen. Code, § 1170, subd. (b)(2).)

Additionally, where certain factors contributed to the offense, the court is required to impose the low term unless aggravating circumstances outweigh mitigating circumstances. These factors are where the defendant experienced psychological, physical, or childhood trauma, is a youth (under age 26), or is or has been a victim of domestic violence or human trafficking. (Pen. Code, § 1170, subd. (b)(6).)

"In sentencing the convicted person, the court shall apply the sentencing rules of the Judicial Council." (Pen. Code, § 1170, subd. (a)(3).) The California Rules of Court, rule 4.421 states that circumstances in aggravation include factors relating to the crime (12 enumerated criteria) and factors relating to the defendant (five enumerated criteria). Finally the rule notes that the court can consider "[a]ny other factors statutorily declared to be circumstances in aggravation or that reasonably relate to the defendant or the circumstances under which the crime was committed." (Cal. Rules of Court, rule 4.421(c).)

Similarly, rule 4.423 states circumstances in mitigation that a court should consider. There are 10 enumerated criteria in mitigation relating to the crime, 15 enumerated criteria related to the defendant, and a residual clause allowing the court to consider any other factors statutorily enumerated or that reasonably related to the defendant or the circumstances under which the crime was committed. (*Ibid.*)

Existing law, enacted last year through AB 352 (Pacheco), Chapter 554, Statutes of 2025, added criminal threats against a state constitutional officer, a Member of the Legislature, or a judge or commissioner as a factor in aggravation that may authorize imposition of the upper term if the jury finds it true beyond a reasonable doubt. This bill would expand this newly created provision to add criminal threats against a city, county, city and county, or public district, or a local agency official. In order to consider this factor in aggravation, it will have to be either admitted by the defendant, or found to be true beyond a reasonable doubt by the jury, or by the judge in the case of a court trial.

5) **Argument in Support**: According to *California Contract Cities Associations*, "Over the past few years federal, state, and local elected officials have reported instances of grave threats, harassment, and intimidation at alarming levels. In 2025, the Legislature passed AB 352 (Pacheco) to address the issue, which allows for harsher sentencing when an individual is making threats against state officials that could result in death or great bodily injury. SB 239 expands upon AB 352, ensuring that offenders could face similar sentencing when threatening local elected officials, including County election officials, City election officials, and other local agency officials. We applaud Senator Arreguin for his leadership on this important issue, as it is critical that elected officials at all levels of government are given special recognition under this state law as a means of protecting their welfare and strengthening public safety."

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

7) **Related Legislation**: SB 73 (Cervantes), Chapter 10, Statutes of 2026, among other things, prohibited a peace officer from interfering in any manner with the administration of any election in this state and in the discharge of duties by the Secretary of State, a county elections official, an election official, or a volunteer performing required elections-related tasks prescribed by law except as necessary to respond to urgent threats to public health and safety.

8) **Prior Legislation**:

   a) AB 352 (Pacheco), Chapter 554, Statutes of 2025, authorized the court to consider, as a factor in aggravation for purposes of a felony criminal threats violation, that the defendant willfully threatened to commit a crime that would result in the death or great

bodily injury of a person the defendant knew was a state constitutional officer, a Member of the Legislature, or a judge or court commissioner.

b) AB 848 (Soria), Chapter 625, Statutes of 2025, explicitly allowed the court to consider as a factor in aggravation for purposes of sentencing a defendant convicted of sexual battery that the defendant was employed at a hospital where the offense occurred and that victim was in the defendant's care or seeking medical care at the hospital.

c) SB 567 (Bradford), Chapter 731, Statutes of 2021, made the middle term presumptive and to limit the court's ability to impose the upper term. As noted above, now the upper term may be imposed only "when there are circumstances in aggravation of the crime that justify the imposition of a term of imprisonment exceeding the middle term and the facts underlying those circumstances have been stipulated to by the defendant or have been found true beyond a reasonable doubt at trial by the jury or by the judge in a court trial.

REGISTERED SUPPORT / OPPOSITION:

Support

California Association of Joint Powers Authorities
California Contract Cities Association
California Municipal Clerks Association (CMCA)
California Special Districts Association
Valley Industry and Commerce Association (VICA)

Opposition

No longer applicable

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

Amended Mock-up for 2025-2026 SB-239 (Arreguín (S))

Mock-up based on Version Number 96 - Amended Assembly 6/17/26
Submitted by: Stella Choe, Assembly Public Safety

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

SECTION 1. Section 422 of the Penal Code is amended to read:

422. (a) Any person who willfully threatens to commit a crime which will result in death or great bodily injury to another person, with the specific intent that the statement, made verbally, in writing, or by means of an electronic communication device, is to be taken as a threat, even if there is no intent of actually carrying it out, which, on its face and under the circumstances in which it is made, is so unequivocal, unconditional, immediate, and specific as to convey to the person threatened, a gravity of purpose and an immediate prospect of execution of the threat, and thereby causes that person reasonably to be in sustained fear for their own safety or for their immediate family's safety, shall be punished by imprisonment in the county jail not to exceed one year, or by imprisonment in the state prison.

(b) In sentencing a person convicted of a felony violation of subdivision (a), the court may consider, as a factor in aggravation, that the defendant willfully threatened to commit a crime that would result in the death or great bodily injury of a person the defendant knew was a state constitutional officer, a Member of the Legislature, or a judge or court commissioner, as defined in subdivisions (a), (b), (c), (n), and (q) of Section 7920.500 of the Government Code, ***an elected local agency official***, ***or*** an elections official of a city, county, city and county, or public district, ~~or a local agency official as defined in subdivision (b) of Section 53237 of the Government Code~~.

(c) (1) For purposes of this section, "immediate family" means any spouse, whether by marriage or not, parent, child, any person related by consanguinity or affinity within the second degree, or any other person who regularly resides in the household, or who, within the prior six months, regularly resided in the household.

(2) For purposes of this section, "electronic communication device" includes, but is not limited to, telephones, cellular telephones, computers, video recorders, fax machines, or pagers. "Electronic communication" has the same meaning as the term is defined in Subsection 12 of Section 2510 of Title 18 of the United States Code.

Date of Hearing: June 30, 2026
Chief Counsel: Andrew Ironside

ASSEMBLY COMMITTEE ON PUBLIC SAFETY
Nick Schultz, Chair

SB 356 (Jones) – As Amended March 5, 2026

As Proposed to be Amended in Committee

SUMMARY: Provides that a person sentenced for a one-strike sex offense, as a habitual sex offender, for aggravated sexual assault of a child, or for specified sex acts on a child 10 years of age or younger, is ineligible for elderly parole until the person is 65 years old or older and has served a minimum of 25 years of continuous incarceration on their current sentence.

EXISTING LAW:

1) Establishes the Elderly Parole Program, to be administered by the Board of Parole Hearings (BPH), for purposes of reviewing the parole suitability of any inmate who is 50 years of age or older and has served a minimum of 20 years of continuous incarceration on the inmate's current sentence, serving either a determinate or indeterminate sentence. (Pen. Code, § 3055, subd. (a).)

2) Requires BPH, when considering the release of an inmate, as specified, to give special consideration to whether age, time served, and diminished physical condition, if any, have reduced the elderly inmate's risk for future violence. (Pen. Code, § 3055, subd. (c).)

3) Requires BPH, when scheduling a parole consideration hearing date or when considering a request for an advance hearing, as specified, to consider whether the inmate meets or will meet the age and time-served criteria. (Pen. Code, § 3055, subd. (d).)

4) States that an individual who is subject to this section shall meet with BPH pursuant to subdivision (a) of Section 3041. (Pen. Code, § 3055, subd. (e).)

5) Requires BPH, if an inmate is found suitable for parole under the Elderly Parole Program, to release the individual on parole, as specified. (Pen. Code, § 3055, subd. (e).)

6) Requires BPH, if parole is not granted, to set the time for a subsequent elderly parole hearing, as specified, and provides that no subsequent elderly parole hearing shall be necessary if the offender is released pursuant to other statutory provisions prior to the date of the subsequent hearing. (Pen. Code, § 3055, subd. (f).)

7) Provides the following exceptions to the Elderly Parole Program:

   a) Persons who had a prior conviction for a serious or violent felony;

   b) Persons who were sentenced to life in prison without the possibility of parole or death; or,

c) Persons convicted of first-degree murder of a peace officer, as defined, who was killed while engaged in the performance of their duties, and the individual knew, or reasonably should have known, that the victim was a peace officer engaged in the performance of their duties, or the victim was a peace officer or a former peace officer and was intentionally killed in retaliation for the performance of their official duties. (Pen. Code, § 3055, subd. (g) & (h).)

8) Provides that the provisions of the Elderly Parole Program do not alter the rights of victims at parole hearings. (Pen. Code, § 3055, subd. (i).)

9) Provides that one year before the inmate's minimum eligible parole date (MEPD) a panel of two or more commissioners or deputy commissioners shall again meet with the inmate and shall normally grant parole, as specified. (Pen. Code, § 3041, subd. (a)(2).)

10) Provides that, upon a grant of parole, the inmate shall be released subject to all applicable review periods, except an inmate shall not be released before reaching his or her MEPD, as specified, unless the inmate is eligible for earlier release under their youth offender parole eligibility date or elderly parole eligibility date. (Pen. Code, § 3041, subd. (a)(4).)

11) Requires BPH to grant parole to an inmate unless it determines that the gravity of the current convicted offense or offenses, or the timing and gravity of current or past convicted offense or offenses, is such that consideration of the public safety requires a more lengthy period of incarceration for this individual. (Pen. Code, § 3041, subd. (b)(1).)

FISCAL EFFECT: Unknown.

COMMENTS:

1) **Sponsors**: Author-sponsored

2) **Author's Statement**: According to the author, "California's Elderly Parole Program was created to provide parole consideration for incarcerated individuals who have reached an advanced age after serving lengthy prison terms. However, in 2020, the Legislature lowered eligibility from age 60 after 25 years of incarceration to age 50 after 20 years served, dramatically expanding access to the program. Most Californians would not consider a 50-year-old to be elderly. Yet under current law, individuals convicted of serious crimes may become eligible for elderly parole at an age when many Californians are still raising families, building careers, and actively participating in their communities.

"SB 356 restores the program's original eligibility standards of age 60 and 25 years served. The bill does not eliminate parole opportunities, alter the Board of Parole Hearings' authority, or affect victim participation rights. Restoring the original eligibility standards reinforces public safety while preserving parole opportunities for incarcerated individuals who have reached an advanced age. The bill returns the Elderly Parole Program to its original purpose, ensuring that this specialized parole pathway remains available to individuals who have attained a genuinely advanced age after serving substantial prison terms."

3) **Elderly Parole Program:** As the result of severe prison overcrowding, the Three-Judge Court ordered the California Department of Corrections and Rehabilitation (CDCR) to

implement several population reduction measures, including to "[f]inalize and implement a new parole process whereby inmates who are 60 years of age or older and have served a minimum of twenty-five years of their sentence will be referred to the Board of Parole Hearings to determine suitability for parole." (February 10, 2014 Order, 2:90-cv-0520 LKK DAD PC, 3-Judge Court, *Coleman v. Brown, Plata v. Brown*) In response to the order, BPH created the Elderly Parole Program and began holding elderly parole hearings on October 1, 2014. Inmates with determinate terms as well as those sentenced to life with the possibility of parole are eligible for the program.[1] Inmates who are sentenced to life without the possibility of parole, or who are sentenced to death are not eligible for the program.[2]

AB 1448 (Weber), Chapter 676, Statutes of 2017, codified the Elderly Parole Program. However, AB 1448 narrowed the eligibility criteria by excluding individuals who were sentenced pursuant to "Three Strikes" or who were convicted of first-degree murder of a peace officer from the Elderly Parole Program. (Pen. Code, § 3055, subds. (g) & (h).) AB 3234 (Ting), Chapter 334, Statutes of 2020, expanded the eligibility criteria for elderly parole. Specifically, AB 3234 lowered the minimum age at which an incarcerated individual is eligible for elderly parole from 60 to 50 and the amount of time that must be served from 25 years to 20 years. Incarcerated individuals who meet the eligibility criteria of the court-ordered Elderly Parole Program but who are excluded from the statutory Elderly Parole Program are eligible for elderly parole consideration under the court-ordered program.[3]

4) **General Overview of the Parole Process:** This bill would delay the time persons convicted of specified sex crimes are eligible for elderly parole. Notably, a person eligible for elderly parole does not mean they are automatically suitable for parole, but rather that they are eligible for a hearing to determine their suitability.

BPH is required to hold a hearing on a person's suitability for parole one year before the person's MEPD to determine if the person should be released from prison. (Pen. Code, § 3041, subd. (a)(2).) Existing law requires BPH to grant parole unless it determines that the gravity of the current convicted offense or offenses, or the timing and gravity of current or past convicted offense or offenses, is such that consideration of the public safety requires a more lengthy period of incarceration for this individual. (Pen. Code, § 3041, subd. (b)(1).)

The Elderly Parole Program requires BPH "to give special consideration to whether age, time served, and diminished physical condition, if any, have reduced the elderly inmate's risk for future violence, when considering the release of an inmate." (Pen. Code, § 3055, subd. (c).) BPH can consider all relevant, reliable information available. (Cal. Code Regs., tit. 15, § 2281, subd. (b).) Factors showing unsuitability include, among others, whether the person abused their victim during the offense or the offense was exceptionally cruel or callous; and, whether the person has an unstable social history, committed a sadistic sexual offense, demonstrates a lack of remorse, or has engaged in serious misconduct while incarcerated. (Cal. Code Regs., tit. 15, § 2281, subd. (c).) Circumstances tending to show suitability include, among others, a stable social history, signs of remorse, age, understanding and future plans, and positive institutional behavior. (Cal. Code Regs., tit. 15, § 2281, subd. (d).)

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[1] <https://www.cdcr.ca.gov/bph/elderly-parole-hearings-overview/> [as of May 29, 2026].
[2] *Ibid.*
[3] BPH, *Elderly Parole Fact Sheet* (Mar. 2022), p. 1 available at <https://www.cdcr.ca.gov/bph/wp-content/uploads/sites/161/2022/03/Elderly-Parole-Fact-Sheet3_18-1.pdf> [as of May 29, 2026].

Regardless of the length of time served, a person must be found unsuitable for and denied parole if BPH determines that the person poses an unreasonable risk of danger to society if released from prison. (Cal. Code Regs., tit. 15, § 2281, subd. (a).)

Existing law also requires a person convicted of a sexually violent offense and up for parole to undergo a comprehensive risk assessment for sexual offenders. (Pen. Code, § 3053.9.) The risk assessment is conducted by licensed psychologist employed by BPH who consider factors impacting the person's risk of violence. (*Ibid.*)

If found suitable for parole, a person released from custody is subject to supervision. Persons who are eligible for release under this bill are subject to parole supervision for at least 10 years, and could even receive lifetime parole under certain circumstances. (Pen. Code, §§ 3000, subd. (b)(3); 3001.01, subd. (d)(1); and 3000.1, subd. (a)(2).) Existing law requires BPH, within 10 days following any decision granting parole, to send the incarcerated person a written statement setting forth the reason or reasons for granting parole, the conditions the person must meet in order to be released, and the consequences of failure to meet those conditions. (Pen. Code, § 3041.5, subd. (b)(1).) Existing law provides that the parole agency can impose additional and appropriate conditions of supervision if the person violated a parole condition. (Pen. Code, § 3000.08, subd. (d).) Failure to comply with the conditions of parole could result in parole revocation and return to custody. (Pen. Code, § 3000.08, subd. (f)(1).)

5) **Recidivism**: Available data demonstrates that recidivism rates for persons granted parole through the Elderly Parole Program are low. The most recent CDCR recidivism report available on the department's website reported that four of the 221 individuals (1.8%) released through the program were reconvicted for any criminal offense in the three years following release.[4] Just one of those individuals was convicted of a felony against a person, while the other three individuals were convicted of misdemeanors.[5] By comparison, the overall recidivism rate for those released from CDCR during that period is 39.1 percent.[6]

   Prior reports from 2022-2024 show recidivism rates for persons released under the Elderly Parole Program of 1.0 percent, 0.7 percent, and 2.4 percent, respectively.[7]

6) **Argument in Support**: According to the *District Attorney for Ventura County*, "The Elderly Parole Program exists to assess whether age, time served, and diminished physical condition have reduced an inmate's risk for future violence, such that they may safely receive early release. However, offenders serving life sentences for the most violent and depraved crimes can receive "elderly" parole at only age 50, rather than when the offender is genuinely too old to be a continuing danger in the community.

   "SB 356 recalibrates this early release program, setting minimum eligibility at age 60, with at

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[4] CDCR, Recidivism Rates for Individuals Released Through Board of Parole Hearings Processes in Fiscal Year 2019-20 (July 2025) p. 6 <Recidivism Rates for Individuals Released Through Board of Parole Hearings Processes in Fiscal Year 2019-20> [as of May 29, 2026].
[5] *Ibid.*
[6] <https://app.powerbigov.us/view?r=eyJrIjoiNmRjOTkwMWEtYmVkMy00MTA1LWIxZDYtYzg4OTIzYjkxNTRlIiwidCI6IjA2NjI0NzdkLWZhMGMtNDU1Ni1hOGY1LWMzYmM2MmFhMGQ5YyJ9> [as of May 29, 2026].
[7] <https://www.cdcr.ca.gov/research/offender-outcomes-characteristics/offender-recidivism/> [as of May 29, 2026].

least 25 years served, to preserve the program's framework while ensuring it reflects genuine aging and substantial time served. The gravity of eligible offenses cannot be overstated, including murder, serial rape, kidnapping, and serial child molestation. Your bill's adjusted thresholds better reflect the severity of these crimes and the expectations of victims and the public regarding the meaning of life sentences.

"In Ventura County, many of the inmates qualifying for elderly parole are serial child molesters serving many-decades-long life sentences that reflect the lifelong harm they caused their victims. These inmates will be eligible for parole after serving only a small fraction of their sentences simply because they reach age 50 and have served 20 years. This is a gross injustice to their child victims and a threat to children in our community.

"Consider the example of Francisco Guzman, a 53-year-old inmate from Ventura County who repeatedly molested two young girls ages six and seven for nearly a year. Sentenced to 282-years-to-life, Guzman will be eligible for parole before age sixty after serving only 20 years, less than 10 percent of his "life" sentence. Consider also Brian Humason, age 51, sentenced to 72-years-to-life in Ventura County for forcibly molesting children ages seven and nine. Humason has already had one parole hearing and will have another at only age 54. These two offenders demonstrate the need to reform this misnamed program, which grants leniency to child molesters.

"Although it is appropriate to evaluate whether an offender presents an ongoing danger, it is also appropriate to impose just punishment for the worst sexual offenders and to consider the lifetime suffering of victims. The measure approach of SB 356 respects victims' rights, preserves community safety, and maintains greater accountability for the most serious crimes while still allowing case-by-case assessment of diminished risk due to genuinely advanced age."

7) **Argument in Opposition**: According to the *Ella Baker Center for Human Rights*, "**Elderly Parole Was Created in Recognition of Exceptionally Low Recidivism Rates Among Elderly People and to Address Unconstitutional Overcrowding in State Prisons**

"*Brown v. Plata* (2011) consolidated *Plata v. Schwarzenegger* and *Coleman v. Schwarzenegger,* resulting in a 5-4 Supreme Court ruling that California's prison overcrowding violated the Eighth Amendment. The Court affirmed a three-judge panel's order requiring California to reduce its prison population to 137.5% of design capacity to improve dire medical and mental health care.

"In 2014, the court in the class action lawsuits mandated that the state create a new geriatric parole consideration process for people 60 or older who have served 25 years, recognizing that elderly people are the safest to release while posing the highest financial burden given their medical needs. The Legislature agreed with this assessment and codified the program in 2018, and later modified the criteria in 2021 so that people aged 50 or older who have served at least 20 years of incarceration are eligible (while keeping in place exclusions for those sentenced to LWOP, death, under the Three Strikes Law, and for first-degree murder of a peace officer). The 2018 version of elderly parole was too narrow to achieve its constitutional purpose so California expanded eligibility to make the remedy actually effective.

"**Threatens to Bring the State Out of Compliance with Federal Overcrowding Court Orders**

"This bill moves California in the wrong direction at a time when the state remains obligated to maintain compliance with the federal overcrowding mandate established in *Brown v. Plata*. This bill restricts access to elderly parole, one of the system's most critical, low risk release upward and exposing the state to renewed constitutional violations.

"**SB 356 is Unnecessary and Will Not Improve Public Safety**

"**The Parole Suitability Process Already Rigorously Screens Candidates**. California's Elderly Parole Program is a fiscally responsible, evidence-based policy that allows the parole board to consider whether someone is suitable for release on parole. Elder parole eligibility triggers a hearing, not an automatic release. Multiple steps of review stand between eligibility and release, and each parole hearing is a multi-layered, intensive process. If the parole board finds that an individual still poses a risk to public safety despite their age and length of incarceration, that person will not be released from prison. This process is so rigorous that in 2024 less than 17% of scheduled elderly parole hearings actually resulted in a grant.

"Additionally, this bill also undermines rehabilitation as the central question of parole hearings by extending punishment regardless of transformation. Public safety is best served by a parole system that is individualized, evidence-based, and grounded in a person's current risk, not by exclusions that prolong incarceration irrespective of rehabilitation.

"**Recidivism Rates for Elderly People Released Through the Parole Process Are Exceptionally Low**. People released through California's parole hearing process after serving indeterminate sentences consistently have among the lowest recidivism rates not only in our state prison system, but in the nation – approximately 3% overall, including misdemeanor recidivism and just 0.7% for felony crimes against another person. Therefore, the Elderly Parole Program reduces incarceration costs for the state and is backed by decades of research confirming that people aged out of crime, with recidivism rates dropping sharply after age 50.

"**SB 356 Will Come at Enormous Fiscal Cost to California Taxpayers**

"Expanding the population of elderly individuals held in prison for decades longer than necessary imposes a significant and avoidable burden on taxpayers without improving public safety outcomes. While recidivism risk decreases with age, the cost of incarcerating older individuals rises significantly. The California Legislative Analyst's Office (LAO) estimates that it costs two to three times more to incarcerate an elderly person compared to the general population, meaning the annual cost of incarcerating elders is $255,000 to $383,000 per person. This amounts to an enormous financial burden in California. In this fiscal climate, delaying parole consideration for elderly people and accruing unnecessary incarceration costs is unjustifiable.9 Every dollar saved through parole – including elder parole – is a dollar we can put back into the programs that actually make our neighborhoods safer: violence intervention programs, treatment, reentry support, and services for survivors.

"In conclusion, SB 356 ignores well-established desistance research and would result in more

elderly individuals serving excessively long sentences despite their readiness for supervised release, leading to wasted resources that could be better utilized for other purposes, including vital social service programs."

8) **Related Legislation**:

a) AB 2570 (Lackey) would increase the age at which an incarcerated person becomes eligible for the Elderly Parole Program from 50- to 65-years-old. The hearing on AB 2570 was canceled at the request of the author.

b) AB 2727 (Nguyen) would provide that a person sentenced for a one-strike sex offense, as a habitual sex offender, for aggravated sexual assault of a child, or for specified sex acts on a child 10 years of age or younger, is ineligible for elderly parole until the person is 65 years old or older and has served a minimum of 25 years of continuous incarceration on their current sentence. AB 2727 is pending a hearing in the Senate Public Safety Committee.

c) SB 1278 (Niello) would exclude persons sentenced for a one-strike sex offense, as a habitual sex offender, or for specified sex offenses classified as a "violent" and/or "serious" felony from the Elderly Parole Program. SB 1278 failed passage in the Senate Public Safety Committee.

9) **Prior Legislation**:

a) AB 47 (Nguyen), of the 2025-2026 Legislative Session, would have provided that a person sentenced for a one-strike sex offense or as a habitual sex offender is ineligible for elderly parole until the person is 60 years old or older and has served a minimum of 25 years of continuous incarceration on their current sentence. AB 47 was held in suspense in the Assembly Appropriations Committee.

b) SB 286 (Jones), of the 2025-2026 Legislative Session, would have exclude from Elderly Parole eligibility individuals convicted of murder or specified felony sex offenses, or sentenced as a habitual sex offender or under the One Strike Sex Offense statute. SB 286 was held in suspense in the Senate Appropriations Committee.

c) SB 445 (Jones), of the 2021-2022 Legislative Session, would have excluded "One Strike" sex offenses from the Elderly Parole Program. SB 445 failed passage in the Senate Public Safety Committee.

d) AB 3234 (Ting), Chapter 334, Statutes of 2020, lowered the minimum age limitation for the Elderly Parole Program to inmates who are 50 years of age and who have served a minimum of 20 years.

e) SB 411 (Jones), of the 2019-2020 Legislative Session, was nearly identical to SB 445 above. SB 411 did not receive a hearing in the Senate Public Safety Committee.

f) AB 1448 (Weber), Chapter 676, Statutes of 2017, codified the Elderly Parole Program, to be administered by BPH.

g) SB 224 (Liu), of the 2015-2016 Legislative Session, was substantially similar to AB 1448 above. SB 224 was ordered to the Inactive File on the Senate Floor.

REGISTERED SUPPORT / OPPOSITION:

Support

Arcadia Police Officers' Association
Brea Police Association
Burbank Police Officers' Association
California Association of School Police Chiefs
California Coalition of School Safety Professionals
California District Attorneys Association
California Narcotic Officers' Association
California Reserve Peace Officers Association
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 Professional Peace Officers Association
Los Angeles School Police Management Association
Los Angeles School Police Officers Association
Murrieta Police Officers' Association
Newport Beach Police Association
Palos Verdes Police Officers Association
Placer County Deputy Sheriffs' Association
Pomona Police Officers' Association
Riverside Police Officers Association
Riverside Sheriffs' Association
San Diego County District Attorney's Office
The California Baptist Capitol Ministry
Ventura County District Attorney's Office
2 Private Individuals

Opposition

ACLU California Action
California Coalition for Women Prisoners
California Public Defenders Association
Californians United for a Responsible Budget
Center on Juvenile and Criminal Justice
Ella Baker Center for Human Rights
Fair Chance Project
Friends Committee on Legislation of California
Initiate Justice
Justice2jobs Coalition
LA Defensa

San Francisco Public Defender
San Quentin Skunkworks
Saving Lives in Custody California
Smart Justice California, a Project of Beyond Impact
Uncommon Law
4 Private Individuals

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

Amended Mock-up for 2025-2026 SB-356 (Jones (S))

Mock-up based on Version Number 97 - Amended Assembly 3/5/26
Submitted by: Staff Name, Office Name

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

SECTION 1. Section 3055 of the Penal Code is amended to read:

3055. (a) The Elderly Parole Program is hereby established, to be administered by the Board of Parole Hearings, for purposes of reviewing the parole suitability of any inmate who is ~~60~~ **50** years of age or older and has served a minimum of ~~25~~ **20** years of continuous incarceration on the inmate's current sentence, serving either a determinate or indeterminate sentence.

(b) (1) For purposes of this code, the term "elderly parole eligible date" means the date on which an inmate who qualifies as an elderly offender is eligible for release from prison.

(2) For purposes of this section, "incarceration" means detention in a city or county jail, local juvenile facility, a mental health facility, a Division of Juvenile Justice facility, or a Department of Corrections and Rehabilitation facility.

(c) When considering the release of an inmate specified by subdivision (a) pursuant to Section 3041, the board shall give special consideration to whether age, time served, and diminished physical condition, if any, have reduced the elderly inmate's risk for future violence.

(d) When scheduling a parole consideration hearing date pursuant to subdivision (b) of Section 3041.5 or when considering a request for an advance hearing pursuant to subdivision (d) of Section 3041.5, the board shall consider whether the inmate meets or will meet the criteria specified in subdivision (a).

(e) An individual who is subject to this section shall meet with the board pursuant to subdivision (a) of Section 3041. If an inmate is found suitable for parole under the Elderly Parole Program, the board shall release the individual on parole as provided in Section 3041.

(f) If parole is not granted, the board shall set the time for a subsequent elderly parole hearing in accordance with paragraph (3) of subdivision (b) of Section 3041.5. No subsequent elderly parole hearing shall be necessary if the offender is released pursuant to other statutory provisions prior to the date of the subsequent hearing.

(g) This section does not apply to cases in which sentencing occurs pursuant to Section 1170.12, subdivisions (b) to (i), inclusive, of Section 667, or in cases which an individual was sentenced to life in prison without the possibility of parole or death.

(h) Notwithstanding subdivision (a), a person sentenced pursuant to Sections 269, 288.7, 667.61, 667.71 shall not be suitable for parole pursuant to this section unless the person is 65 years of age or older and has served a minimum of 25 years of continuous incarceration on their current sentence.

~~(h)~~ **(i)** This section does not apply if the person was convicted of first-degree murder if the victim was a peace officer, as defined in Section 830.1, 830.2, 830.3, 830.31, 830.32, 830.33, 830.34, 830.35, 830.36, 830.37, 830.4, 830.5, 830.6, 830.10, 830.11, or 830.12, who was killed while engaged in the performance of their duties, and the individual knew, or reasonably should have known, that the victim was a peace officer engaged in the performance of their duties, or the victim was a peace officer or a former peace officer under any of the above-enumerated sections, and was intentionally killed in retaliation for the performance of their official duties.

~~(i)~~ **(j)** This section does not alter the rights of victims at parole hearings.

~~(j)~~ **(k)** By December 31, 2022, the board shall complete all elderly parole hearings for individuals who were sentenced to determinate or indeterminate terms and who, on the effective date of the bill that added this subdivision, are or will be entitled to have their parole suitability considered at an elderly parole hearing before January 1, 2023.

Date of Hearing: June 30, 2026
Chief Counsel: Andrew Ironside

ASSEMBLY COMMITTEE ON PUBLIC SAFETY
Nick Schultz, Chair

SB 758 (Umberg) – As Amended June 24, 2026

SUMMARY: Prohibits a retailer from selling nitrous oxide at a retail location. Specifically, **this bill**:

1) Prohibits a retailer from selling nitrous oxide, as defined, at a retail location.

2) Provides that a retailer does not include a grocery store or a general retail merchandise store with a grocery department, except that a retailer includes a convenience store.

3) Authorizes a city or county, or city and county, to adopt an ordinance imposing greater restrictions on the retail sale of nitrous oxide than those imposed by this section provided that the ordinance does not restrict legitimate uses, including, but not limited to, dentistry, food preparation, and automotive services.

EXISTING LAW:

1) Defines "nitrous oxide" to mean any of the following substances: N2O, dinitrogen monoxide, dinitrogen oxide, nitrogen oxide, or laughing gas. (Pen. Code, § 381c, subd. (a).)

2) Provides that any person that possesses nitrous oxide or any substance containing nitrous oxide with the intent to breathe, inhale, ingest for the purposes of causing a condition of intoxication, elation, euphoria, dizziness, stupefaction, or dulling of the senses, or for the purposes of, in any manner, changing, distorting, or disturbing the audio, visual, or mental processes, or who knowingly with the intent to do so, is under the influence of nitrous oxide is a guilty of a misdemeanor punishable by imprisonment in a county jail by a term not to exceed six months, by a fine not to exceed $1,000, or by both imprisonment and a fine. (Pen. Code, § 381b.)

3) States that every person who sells, furnishes, administers, distributes, or gives away, or offers to sell, furnish, distribute, or give away a device, canister, tank, or receptacle either exclusively containing nitrous oxide, or exclusively containing a chemical compound containing nitrous oxide to a person under 18 years of age is guilty of a misdemeanor punishable by imprisonment in a county jail by a term not to exceed six months, by a fine not to exceed $1,000, or by both imprisonment and a fine. The court shall consider ordering community service as a condition of probation. (Pen. Code, § 381c, subd. (b).)

4) Provides that it is a defense to the crime of selling nitrous to a minor if the defendant honestly and reasonably believed that the minor involved in the offense was at least 18 years of age. The defendant bears the burden of establishing this defense by a preponderance of the evidence. (Pen. Code, § 381c, subd. (c)(1) & (2).)

5) Makes it a misdemeanor punishable by a term of imprisonment not to exceed six months, by a fine not to exceed $1,000, or both, for any person to dispense or distribute nitrous oxide to a person knowing or having reason to believe that the nitrous oxide will be ingested or inhaled by the person for the purposes of causing intoxication, euphoria, dizziness, or stupefaction and that person proximately cause great bodily injury or death to himself, herself, or any other person. (Pen. Code, § 381d.)

6) Requires a person that distributes or dispenses nitrous to record each transaction involving nitrous oxide in a physical written document. The person dispensing or distribution the nitrous oxide shall require the purchaser to sign the document and provide a residential address and present a valid government issued photo identification card. The person dispensing or distributing the nitrous oxide shall sign and date the document and retain the document at the business address for one year from the date of the transaction, and shall make transaction records available during normal business hours for inspection and copying by officers and employees of the California State Board of Pharmacy, or of other law enforcement agencies of this state or of the United States upon presentation of a duly authorized search warrant. (Pen. Code, § 381e, subd. (a).)

7) Requires that the document used to record each nitrous oxide transaction shall inform the purchaser of all of the following:

   a) The inhalation of nitrous oxide may be hazardous to your health;

   b) That it is a violation of state law to possess nitrous oxide or any substance containing nitrous oxide with the intent to breathe, inhale, or ingest it for the purpose of intoxication;

   c) That it is a violation of state law to knowingly distribute or dispense nitrous oxide or any substance containing nitrous oxide, to a person who intends to breathe, ingest, or inhale it for the purpose of intoxication.

   d) States that these requirements shall not apply to any person that administers nitrous oxide for the purpose of providing medical or dental care if administered by a medical or dental provider licensed by this state or at the direction or under the supervision of a practitioner licensed in this state; and,

   e) Provides that these requirements shall not apply to the sale of nitrous oxide contained in food products for use as a propellant. (Pen. Code, § 381e, subd. (b).)

8) Requires, commencing June 30, 2004, a retailer have in place and maintain a license to engage in the sale of cigarettes or tobacco products. A retailer that owns or controls more than one retail location shall obtain a separate license for each retail location, but may submit a single application for those licenses. (Bus. & Prof. § 22972, subd. (a).)

FISCAL EFFECT: Unknown.

COMMENTS:

1) **Sponsors**: California Narcotic Officers' Association, League of California Cities, and Rural County Representatives of California.

2) **Author's Statement**: According to the author, "SB 758 aims to address growing public health concerns by regulating a drug that is readily available at gas stations, liquor stores, and tobacco shops. Nitrous oxide has legitimate purposes in medicine, dental, and food preparation, such as for canned whipped cream. However, it is also inhaled recreationally by some users, causing long-term neurological effects, paralysis, or death. Allowing any retailer to sell nitrous oxide makes the drug dangerously available to recreational users. Cities have already begun passing ordinances to reel in Nitrous Oxide use, but comprehensive legislation at the state level is needed to ensure the safety of all California residents."

3) **Nitrous Oxide:** Nitrous oxide is a colorless, odorless to sweet-smelling gas used to manage pain and anxiety in dentistry as well as other clinical settings.[1] In addition, it is used in food preparation and as an oxidizer in model rockets and motor vehicle racing.

   Nitrous oxide is also misused as a recreational drug and produces short-lived euphoric and hallucinogenic effects. It is consumed in the form of whippets—balloons filled with the gas via small, pressurized canisters designed to be used in whipped cream dispensers. Nitrous oxide has become increasingly popular, particularly among teens and young adults, due to its low cost and availability online and in grocery and convenience stores, gas stations, and shops that sell vapes and other tobacco-related products.[2] Short-term side effects include slurred speech, dizziness, and headaches.[3] Although nitrous oxide use is often perceived by those using it as safe or harmless, repeated use can cause severe neurologic, cardiovascular, and psychiatric effects, including hallucinations, delusions, organ damage, nerve damage, seizures, coma, and death.[4]

   In addition to the harmful physical effects that nitrous oxide misuse can have on users, the discarded canisters containing nitrous oxide have presented challenges for waste management and recycling companies.

4) **Prohibition on Sale of Nitrous Oxide:** Existing law prohibits possessing nitrous oxide with the intent to inhale the gas for the purpose of causing a condition of intoxication, or who knowingly and with the intent to use nitrous oxide illegally and is under the influence of nitrous oxide or any material containing nitrous oxide is guilty of a misdemeanor. (Pen. Code, § 381b.) Penal Code section 381c prohibits any person from selling or furnishing any device, canister, tank, or receptacle either exclusively containing nitrous oxide or exclusively containing a chemical compound mixed with nitrous oxide, to a person under 18 years of age, any person who does so is guilty of a misdemeanor. (Pen. Code, § 381c, subd. (a).) This section is expressly aimed at businesses that sell nitrous to young people knowing they would use it for an illegal purpose. Penal Code section 381d criminalizes sale of nitrous to a person

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[1] American Dental Association, Nitrous Oxide <https://www.ada.org/resources/ada-library/oral-health-topics/nitrous-oxide> [as of June 19, 2026].
[2] Centers for Disease and Control, Notes from the Field: Recreational Nitrous Oxide Misuse—Michigan, 2019-2023 (Apr. 10, 2025) <https://www.cdc.gov/mmwr/volumes/74/wr/mm7412a3.htm> [as of June 19, 2026].
[3] American Addiction Centers, Nitrous Oxide (Whippet) Abuse, Side Effects, & Treatment (Dec. 31. 2024) <https://americanaddictioncenters.org/inhalant-abuse/nitrous-oxide-whippets> [as of June 19, 2026].
[4] *Ibid.*

that suffers death or bodily injury. Both 381c and 381d are misdemeanors punishable by up to six months in the county jail, by fine, or both.

When a person sells or furnishes nitrous oxide where the seller knows or reasonably should know, a person under the age of 18 would use it for an illegal purpose, the court is required to order the suspension of the business license, for a period of up to one year, if the person who knowingly sold or furnished nitrous to a person under the age of 18 after having been previously convicted of this offense, unless the owner of the business license can demonstrate a good faith attempt to prevent illegal sales or deliveries by the owner's employees. (Pen. Code, 381c, subd. (e).)

5) **Argument in Support**: According to the *League of California Cities*, a co-sponsor of this bill, "Nitrous oxide (NOX) is an odorless, colorless chemical with established legitimate uses in food preparation and dentistry. However, it is increasingly misused through inhalation for intoxicating purposes. In recent years, numerous California cities have reported an increase in the recreational use of nitrous oxide obtained from smoke shops and other retailers.

"Not only is recreational use illegal but it is also extremely dangerous. The U.S. Food & Drug Administration earlier this year warned in their publication titled, 'FDA Advises Consumers Not to Inhale Nitrous Oxide Products' that, 'Inhaling nitrous oxide can result in a range of symptoms and serious health problems, neurological and nerve damage, spinal cord and brain damage, heart attack, and in some cases, death.'

"Although current law prohibits the sale of nitrous oxide for recreational intoxicating purposes, significant loopholes in the statutory framework allow these products to be easily diverted into the recreational market. For example, nitrous oxide canisters labeled for food preparation are repurposed and resold at various tobacco retail locations. To address this issue, at least twenty-five cities have brought forth ordinances focused on restricting the sale of nitrous oxide in tobacco retail locations that have no real connection to legitimate uses. However, effectively preventing the recreational sale of nitrous oxide will require clear, consistent statewide guidelines.

"SB 758 would close the dangerous loophole that allows nitrous oxide to be sold in smoke shops, making it easier for cities to address the troubling proliferation of recreational nitrous oxide related injuries and deaths."

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

7) **Related Legislation**: SB 936 (Blakespear) would create four new infractions related to the sale, offer to sell, or distribution of nitrous oxide. SB 936 is scheduled for hearing today in this committee.

8) **Prior Legislation**:

   a) AB 1107 (Flora), of the 2023-2024 Legislative Session, would have mandated a court to suspend a business license for up to one year of any business or person that knowingly fails to record any nitrous oxide sale, as specified. AB 1107 was held in suspense in the Assembly Appropriations Committee.

b) SB 193 (Nielsen), of the 2019-2020 Legislative Session, would have created a new misdemeanor for any retailer of tobacco or tobacco-related products from selling or offering to sell nitrous oxide; and would have required a court to suspend the business license, for a period of up to one year, for any business owner or employee who knowingly violates the prohibition against selling nitrous oxide after having been previously convicted of a violation, unless the owner of the business license can demonstrate a good-faith attempt to prevent violations by the owner or the owner's employees. SB 193 was held in suspense in the Assembly Appropriations Committee.

c) SB 631 (Nielsen), of the 2017-2018 Legislative Session, would have prohibited any retailer of tobacco or tobacco-related products, as defined, from selling, offering, or exposing for sale nitrous oxide. The hearing on SB 631 in the Assembly Judiciary Committee was canceled at the request of the author.

d) AB 1735 (Hall), Chapter 458, Statutes of 2014, makes it a misdemeanor for any person to dispense or distribute nitrous oxide to a person, if it is known or should have been known that the nitrous will be ingested or inhaled by the person for the purposes of causing intoxication, and that person proximately cause great bodily injury or death to himself/herself, or any other person.

e) AB 1015 (Torklason), Chapter 266, Statutes of 2009, makes it a misdemeanor for a person to sell or furnish to a person under the age of 18 years a canister or device containing nitrous oxide or a chemical compound mixed with nitrous oxide.

REGISTERED SUPPORT / OPPOSITION:

Support

California Narcotic Officers' Association (Sponsor)
League of California Cities (Co-Sponsor)
Rural County Representatives of California (RCRC) (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 Reserve Peace Officers Association
Californians Against Waste
City of Alameda
City of Carlsbad
City of El Cerrito
City of Garden Grove
City of Paramount
City of Pico Rivera
City of Rocklin
City of San Buenaventura
City of Seal Beach

City of Ventura
Claremont Police Officers Association
Corona Police Officers Association
County of Humboldt
County of Kern
Culver City Police Officers' Association
Fullerton Police Officers' Association
Irvine; City of
Los Angeles School Police Management Association
Los Angeles School Police Officers Association
Murrieta Police Officers' Association
Newport Beach Police Association
Palos Verdes Police Officers Association
Placer County Deputy Sheriffs' Association
Pomona Police Officers' Association
Riverside Police Officers Association
Riverside Sheriffs' Association
South Bayside Waste Management Authority (sbwma) Dba Rethinkwaste
Sunnyvale; City of
Tulare; City of

Opposition

No longer applicable.

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

Date of Hearing: June 30, 2026
Deputy Chief Counsel: Stella Choe

ASSEMBLY COMMITTEE ON PUBLIC SAFETY
Nick Schultz, Chair

SB 874 (Weber Pierson) – As Amended June 3, 2026

As Proposed to be Amended in Committee

SUMMARY: Requires Department of Health Care Services (DHCS), on or before July 1, 2027, to ensure that any provider of behavioral health treatment (BHT) services paid for by Medi-Cal conducts a state and national criminal background check on its employees who interact with patients, according to departmental guidelines. Specifically, **this bill**:

1) States that BHT has the same meaning as in existing law.

2) Requires DHCS to convene a stakeholder workgroup in the first quarter of the 2027 calendar year which includes all of the following:

   a) BHT providers, which may include representatives of trade associations and licensing or certifying bodies, in addition to providers;

   b) Providers of other services to children with autism, including, but not limited to, speech and hearing specialists, occupational therapists, psychiatrists, and vision specialists;

   c) Managed care plans;

   d) Consumers with autism; and,

   e) Consumer advocates for organizations led by individuals with autism and organizations serving families of autistic children.

3) Authorizes DHCS to consult with the Department of Managed Health Care (DMHC) or invite DMHC to the workgroup as well for purposes of coordination with the commercial market.

4) States that the stakeholder workgroup shall review the implementation of BHT services in Medi-Cal, including applied behavior analysis and other evidence-based interventions.

5) Requires the stakeholder workgroup to advise DHCS on all of the following:

   a) Clinical guidelines for the provision of BHT services, including independent clinician assessment for treatment and reauthorization requirements;

   b) Treatment plan requirements, including the number of hours in a treatment plan, documentation of an individual's needs, and how treatment outcomes specific to the individual and the effectiveness of treatment are reviewed;

c) Requirements for the provision of center-based services compared to services provided in the home, school, or otherwise in the child's natural environment to ensure only services that qualify as BHT services are billed;

d) Supervision of unlicensed and uncertified professionals, including the number of hours of supervision required, location of the supervisor, and number of unlicensed professionals a licensed or board-certified professional may supervise. Consideration shall also be given to how such supervision is monitored;

e) Standardization of Medi-Cal managed care plan documentation requirements, including credentialing;

f) Best practices in prioritizing quality care in contracting with BHT services providers; and,

g) Feasibility of requiring fingerprint-based criminal background checks of BHT service providers.

6) Provides that the stakeholder workgroup shall meet no less than quarterly in the 2027 and 2028 calendar years and requires meetings to be open to the public and allow for public participation.

7) Requires, on or before January 1, 2028, DHCS to release and maintain clear clinical guidance for the provision of the BHT benefit.

8) Requires the guidance to be consistent with federal recommendations on BHT services and Early and Periodic Screening, Diagnostic, and Treatment services for individuals under 21 years of age and shall include any modifications based on input from the stakeholder workgroup.

9) States that, on or before January 1, 2029, DHCS hall report to the Legislature and publish on its internet website, an analysis of the utilization of BHT services in California since 2014, a synopsis of changes made as a result of the stakeholder workgroup, and recommendations for statutory, regulatory, or administrative actions necessary to ensure Medi-Cal reimbursement practices align with federal Medicaid program integrity requirements.

10) Specifies that in creating this report to the Legislature, DHCS shall consider all of the following:

a) Whether BHT services reimbursed under the Medi-Cal program meet federal Medicaid requirements governing rehabilitative services and Early and Periodic Screening, Diagnostic, and Treatment services;

b) Whether DHCS and Medi-Cal managed care plans utilize uniform, publicly accessible, evidence-based clinical standards for determining medical necessity and treatment intensity;

c) Whether reimbursed services include documented functional impairments, measurable treatment goals, and periodic assessment of clinical progress sufficient to demonstrate that services constitute therapeutic interventions covered under the Medicaid program;

d) Whether the supervision standards for BHT services are equivalent to or greater than the supervision, observation, documentation, and clinical oversight requirements imposed on comparable health services in other allied health professions regulated under the Business and Professions Code; and,

e) Whether any statutory changes are needed to require a fingerprint-based background check on BHT service providers.

11) States, notwithstanding existing law, DHCS, without taking any further regulatory action, shall implement, interpret, or make specific the provisions of this bill by means of all-county letters, plan letters, plan or provider bulletins, or similar instructions.

EXISTING LAW:

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

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

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

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

5) Requires a request for records to include the applicant's fingerprints, which may be taken by the requester, and any other data specified by DOJ. Requires DOJ to forward requests received for federal criminal offender record information to the FBI to be searched for any record of arrests or convictions. (Pen. Code, § 11105.3, subd. (b).)

6) Requires the agency or employer to notify the parents or guardians of any minor who will be supervised or disciplined by the employee or volunteer when a criminal convictions request reveals that a prospective employee or volunteer has been convicted of a violation or attempted violation of any sex offense requiring sex offender registration, except as specified; assault with intent to commit specified crimes, including sex offenses; statutory rape; child abuse and endangerment; inflicting cruel or inhuman corporal punishment on a child resulting in an injury; or willfully inflicts corporal injury resulting in a traumatic condition upon a victim, and where the agency or employer hires the prospective employee or volunteer. (Pen. Code, § 11105.3, subd. (c).)

7) Requires DOJ to secure any criminal record of a person to determine whether the person has ever been convicted of nonconsensual touching of another, a sex offense against a minor, or of any felony that requires sex offender registration, or whether the person has been convicted or incarcerated within the last 10 years for child abuse and endangerment, inflicting cruel or inhuman corporal punishment on a child resulting in an injury, elder or dependent adult abuse, or theft, robbery, burglary, or any felony. Requires DOJ to provide a subsequent arrest notification, if both of the following conditions are met:

   a) An employer of the person requests the determination and submits fingerprints of the person to the DOJ. Provides that "employer" includes, but is not limited to, an in-home supportive services recipient; an aged or disabled adult who is ineligible for benefits, who receives care by, as specified; any recipient of personal care services under the Medi-Cal program; and any public authority or nonprofit consortium, as described.

   b) The person is unlicensed and provides nonmedical domestic or personal care to an aged or disabled adult in the adult's own home. (Welf. & Inst. Code, § 15660, subd. (a).)

8) Requires DOJ to notify the employer if it is found that the person has ever been convicted of the above specified offenses. Requires DOJ to notify the employer if no criminal record information has been recorded. (Welf. & Inst. Code, § 15660, subd. (b).)

9) Establishes the Medi-Cal program, administered by DHCS, and under which qualified low-income individuals receive health care services. (Welf. & Inst. Code, § 14000, et seq.)

10) Establishes a schedule of benefits under the Medi-Cal program, which includes benefits required under federal law and benefits provided at the state's option, both of which are funded with federal and state dollars. The scope of benefits includes the application of fluoride, or other appropriate fluoride treatment, as defined by DHCS, for children under age 17. (Welf. & Inst. Code, § 14132.)

11) Requires, under federal law, coverage for individuals under age 21 of all necessary health care, diagnostic services, treatment, and other measures to correct or ameliorate defects and physical and mental illnesses and conditions discovered by the screening services, whether or not such services are covered under the State plan, known as the Early and Periodic Screening, Diagnosis, and Treatment (EPSDT) benefit, and codifies this benefit in state law. (Welf. & Inst. Code, § 14059.5; 42 U.S.C. § 1396d.)

12) Specifies that EPSDT services also include all age-specific assessments and services listed under the most current periodicity schedule by the American Academy of Pediatrics and

Bright Futures, and any other medically necessary assessments and services that exceed those listed. (Welf. & Inst. Code, § 14149.95.)

13) Requires BHT to be a Medi-Cal covered service for individuals under 21 years of age only to the extent required by the federal government. (Welf. & Inst. Code, § 14132.56.)

14) Defines "BHT" as professional services and treatment programs, including applied behavior analysis (ABA) and evidence-based intervention programs, that develop or restore, to the maximum extent practicable, the functioning of an individual with pervasive developmental disorder or autism, and are administered by DHCS as described in the approved state plan. (Welf. & Inst. Code, § 14132.56.)

15) Requires DHCS to develop and define eligibility criteria, provider participation criteria, utilization controls, and delivery system structure for services under this section, subject to limitations allowable under federal law, in consultation with stakeholders. (Welf. & Inst. Code, § 14132.56.)

FISCAL EFFECT: Unknown.

COMMENTS:

1) **Sponsor**: Author-sponsored

2) **Author's Statement**: According to the author, "SB 874 strengthens oversight and standardization of Behavioral Health Therapy (BHT) services, including Applied Behavioral Analysis (ABA) in the Medi-Cal program. In recent years, utilization of these services has grown significantly, both in California and around the country, bringing greater federal scrutiny to the provision of these services through the Medicaid program. Some of this growth is by design, as California enacted several bills to reduce barriers to these services. SB 874 is a measured attempt to evaluate whether we have landed in the right place to ensure that families can access the services they need while at the same time protecting the program from potential waste or abuse. SB 874 requires background checks for providers not otherwise checked as part of their licensure, establishes a stakeholder workgroup to review service delivery, and directs DHCS to issue clinical guidance and report to the Legislature on utilization and program integrity. Everyone who works directly with children with disabilities for extended periods of time should have a fingerprint-based background check."

3) **Summary Criminal History Information**: State summary criminal history information is the master record of information compiled by DOJ pertaining to the identification and criminal history of any person. This information includes name, date of birth, physical description, fingerprints, photographs, arrests, dispositions and similar data. (Pen. Code, § 11105, subd. (a).) Access to a person's summary criminal history information is generally prohibited and only allowed to be disseminated if specifically authorized in statute. "The state constitutional right of privacy extends to protect defendants from unauthorized disclosure of criminal history records. [Citation.] These records are compiled without the consent of the subjects and disseminated without their knowledge. Therefore, custodians of the records, have a duty to 'resist attempts at unauthorized disclosure and the person who is the subject of the record is entitled to expect that his right will be thus asserted.'" (*Westbrook v. County of Los Angeles* (1994) 27 Cal.App.4th 157, 165-66.)

DOJ is tasked with maintaining state summary criminal history information and requires the Attorney General to furnish state summary criminal history information only to statutorily authorized entities or individuals for employment, licensing, volunteering, etc. (Pen. Code, § 11105.) In addition to the specified entities authorized to receive state summary criminal history information, DOJ may furnish state summary criminal history information to other specified employers upon a showing of compelling need for the information and to any person or entity when they are required by statute to conduct a criminal background check to comply with requirements or exclusions expressly based upon specified criminal conduct. (Pen. Code, § 11105, subds. (a)(13) & (c).)

16) Existing law provides that any fingerprint-based criminal history check required pursuant to any statute shall be requested by DOJ. The agency or entity authorized to receive criminal history information shall submit to DOJ fingerprint images and any related information required by DOJ for the purpose of obtaining information as to the existence and content of a record of state or federal arrests, as specified. (Pen. Code, § 11105, subd. (u)(1).) If requested, DOJ shall transmit fingerprint images and related information received pursuant to this section to the Federal Bureau of Investigation (FBI) for the purpose of obtaining a federal criminal history information check. DOJ shall review the information returned from the FBI, and compile and disseminate a response or a fitness determination, as appropriate, to the agency or entity identified that requested the information. (Pen. Code, § 11105, subd. (u)(2).)

17) A separate existing statute states, notwithstanding any other law, that an employer or human resources agency may request from DOJ criminal records of a person involving specified offenses who applies for a license, employment, or volunteer position, in which they would have supervisory or disciplinary power over a minor or any person under their care, and further requires DOJ to furnish this information to the requester and applicant. (Pen. Code, § 11105.3, subd. (a).) The list of specified convictions includes sexual battery, a sex offense against a minor, or of any felony that requires sex offender registration, or if within the last 10 years the person was convicted or arrested for child abuse, elder abuse, or as the result of committing theft, burglary, or any felony. (Welf. & Inst. Code, § 15660, subd. (a).)

Additionally, under Welfare and Institutions Code section 15660, DOJ must secure any criminal record of a person to determine whether the person has ever been convicted of nonconsensual touching of another, a sex offense against a minor, or of any felony that requires sex offender registration, or whether the person has been convicted or incarcerated within the last 10 years for child abuse and endangerment, inflicting cruel or inhuman corporal punishment on a child resulting in an injury, elder or dependent adult abuse, or theft, robbery, burglary, or any felony. DOJ is also required to provide a subsequent arrest notification if both of the following conditions are met: (1) An employer of the person requests the determination and submits fingerprints of the person to the DOJ, as specified, and (2) the person is unlicensed and provides nonmedical domestic or personal care to an aged or disabled adult in the adult's own home. (Welf. & Inst. Code, § 15660, subd. (a).)

DOJ must notify the employer if it is found that the person has ever been convicted of the above specified offenses. (Welf. & Inst. Code, § 15660, subd. (b).)

Under current law, some but not all of the providers authorized to provide BHT services are subject to a criminal background check. For example, paraprofessionals are not required to be licensed and often do not undergo a background check despite working with children, including unsupervised at times.

According to the Assembly Health Committee's analysis of this bill: "In addition to mandating coverage and codifying which providers can provide BHT services, SB 946 also required the DMHC to convene an Autism Advisory Task Force (Task Force) by February 1, 2012, to develop recommendations regarding medically necessary BHT for individuals with ASD, as well as the appropriate qualifications, training and supervision for providers of such treatment. The Task Force made a number of recommendations, including that all providers of autism services to be registered with the state's TrustLine Registry or comparable system as a condition of employment and contracting with health plans. TrustLine uses the criminal history background check system to check the fingerprints of applicants, and checks for evidence of additional criminal records. However, this was never done at a statewide level, and subsequent efforts to license these providers, such as AB 1715 (Holden) of 2016, have been unsuccessful. Despite their intensive work with children, there is no statewide requirement that all individual service providers undergo a background check as a condition of providing Medi-Cal services, leaving it up to individual providers to ensure paraprofessionals and professionals they employ to deliver services meet appropriate standards. In their audits of other states' ABA service delivery, the HHS OIG mentioned the lack of background checks as a potential quality-of-care issue that could have potentially put children in danger. This bill requires DHCS to ensure any individual providing BHT services paid for by the Medi-Cal program undergoes a background check and requires DHCS to specify to employers of such individuals how this information is to be collected and shared with DHCS."

However, due to concerns about administration and feasibility of mandating a fingerprint-based background check for this population, this bill, as proposed to be amended in committee, would instead require DHCS to ensure, by July 1, 2027, that any provider of BHT services paid for by the Medi-Cal conducts a state and national criminal background check on its employees who interact with patients, according to departmental guidance. According to background information provided by the author's office, many providers have indicated they are already conducting background checks on their employees, although it is unclear whether they are DOJ background checks or private background checks.

As discussed above, DOJ maintains criminal summary history information and will disseminate such information to statutorily authorized entities. This bill does not mandate a fingerprint-based background check conducted by DOJ. Instead, it requires DHCS to ensure that a background check is conducted in general which could include a background check conducted by a third-party private company. This requirement would have to follow departmental guidelines which may highlight those providers who are not otherwise required to be background checked through a licensing agency. Additionally, it appears that existing law pursuant to Penal Code Section 11105.3 authorizes some providers to request DOJ-level background checks on its employees if they would have supervisory or disciplinary power over a minor or any person under their care which would apply in many circumstances where BHT services are provided.

The bill would also further specify that the stakeholder workgroup shall explore the feasibility of requiring a fingerprint-based background check of BHT providers and to also include in the report to the Legislature whether statutory changes are needed to require a fingerprint-based background check of BHT providers.

4) **Medi-Cal Coverage of BHT:** According to the Centers for Medicare and Medicaid Services (CMS), the EPSDT benefit is more robust than the Medicaid benefit for adults, and the goal is to ensure that individual children get the health care they need when they need it—the right care to the right child at the right time in the right setting. All Medi-Cal plans must provide EPSDT preventive services, including screenings, designed to identify health and developmental issues as early as possible. In 2014, CMS stated in a FAQ that it does not endorse or require any particular treatment modality in reference to ABA services; however, states must adhere to long-standing EPSDT obligations, including providing medically necessary services available for the treatment of autism spectrum disorder. (A previous 2014 CMS informational bulletin laid out how ABA and other services could be covered by Medicaid.)

   According to the Medi-Cal provider manual, Medi-Cal covers all medically necessary BHT services for Medi-Cal members with an autism spectrum disorder diagnosis or for members for whom a physician or psychologist determines BHT services are medically necessary regardless of diagnosis. BHT services are medically necessary if they will correct or ameliorate defects and physical and mental illnesses and conditions discovered through screening, as is required by the federal EPSDT standard. The manual also clarifies that BHT services that will maintain or improve a member's current health condition, prevent a condition from worsening, or prevent the development of additional health problems are medically necessary services. These services include, but are not limited to, behavioral interventions, cognitive behavioral intervention, comprehensive behavioral treatment, language training, modeling, teaching natural strategies, parent training, peer training, pivotal response training, schedules, scripting, self-management, social skills package, and story-based interventions. The manual does exclude certain benefits such as respite, day care, recreational services, educational services, treatment that is solely vocational and or recreational, custodial care, services rendered by a parent, or services that are not evidence-based behavioral intervention practices. Compared to many other Medi-Cal services described in the provider manual, the scope of services covered under BHT is broad and the authorization requirements are minimal. However, once treatment begins, there are specific documentation requirements required for billing. Most BHT services are now provided through Medi-Cal managed care plans, as BHT services are a plan benefit and most children are now enrolled in plans. DHCS does have procedures for services provided through the fee-for-service system.

   According to California's state Medicaid plan, BHT services may be provided by three different levels of providers, ranging from licensed practitioners and board-certified behavior analysts to paraprofessionals with high school diplomas and competency training or certification. While at least master's level professionals do all assessments, and only licensed or board-certified professionals do treatment plans, paraprofessionals provide many of the services themselves, under the supervision of the other professionals.

5) **Recent Federal Scrutiny of ABA/BHT Services**: Starting in 2022, the Office of the Inspector General began a series of audits on Medicaid claims for ABA services following

reports by federal and state agencies of questionable billing patterns by some ABA providers.[1] To date, audits have been completed in Indiana, Wisconsin, Maine, and Colorado. (*Ibid.*) In each case, millions of dollars in improper fee-for-service Medicaid payments were made for ABA provided to children diagnosed with autism.[2] These audits focused largely on compliance issues such as documentation requirements, session notes, and billing for nontherapy time.

At the same time, the Trump administration has begun intensely focusing on fraud in the Medicaid program. In a January 27, 2026, letter from CMS to Governor Newsom, CMS identified "early intensive developmental and behavioral intervention" services, among 13 other services, as a "high-risk" service that has been the focus of fraud investigations in Minnesota and questioned what activities California has undertaken related to these services. DHCS responded in a February 17, 2026, letter highlighting fraud investigations it had conducted tied to some of the other services highlighted and pointing to their national leadership in identifying fraud networks and copious efforts in program integrity, concluding that California's primary focus areas for fraud are not necessarily the same as those found in other states.[3]

This bill requires DHCS to convene a stakeholder workgroup to review the implementation of BHT services in the Medi-Cal program, release and maintain clinical guidance on the provision of the BHT services, and submit a report to the Legislature on the provision of BHT services by January 1, 2029.

6) **Argument in Support**: According to *California Association of Health Plans*, "By establishing a workgroup at the Department of Health Care Servies (DHCS) to review implementation of these services and issue guidance, SB 874 will promote clinical appropriateness, accountability, and program integrity.

"Utilization of ABA therapy has increased dramatically throughout the nation, making it all the more important to ensure that appropriate safeguards are in place. In recent years, we have witnessed an alarming trend of bad actors exploiting the system – resulting in inappropriate utilization and increased health care spending.

"These concerns are well documented. The Office of Inspector General (OIG) conducted a state-by-state investigation of ABA therapy in the Medicaid program and in four of the audited states, the OIG found that state payments did not comply with federal and state requirements. In fact, nearly all of the sampled months audited included billing errors, prompting the OIG to recommend that each state issue a refund to the federal government. The Wall Street Journal also published a report on the rapid expansion of high-risk ABA providers and found that the number of companies providing ABA therapy nearly doubled between 2019 and 2023. The report found that direct state Medicaid payments grew from $660 million to $2.2 billion over the same period – with Managed Care Plans paying

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[1] U.S. Dept. of Health and Human Services, Office of the Inspector General, Series: Audits of Medicaid Applied Behavior Analysis for Children Diagnosed With Autism (Jan. 24, 2022) https://oig.hhs.gov/reports/work-plan/browse-work-plan-projects/srs-a-25-029/.
[2] *Ibid.*
[3] https://www.dhcs.ca.gov/Program-Integrity/documents/California%27s-Response-to-CMS%27-Program-Integrity-Request.pdf

hundreds of millions of dollars beyond these amounts. Additionally, in 2022, a California provider had to pay $650,000 to resolve fraudulent billing allegations in Medi-Cal after they were found billing Medi-Cal for services never rendered.

"SB 874 represents a thoughtful and measured response to these national trends by ensuring that Medi-Cal's coverage of ABA therapy is clinically appropriate and aligned with program goals. CAHP supports efforts to strengthen compliance, address operational challenges, and provide DHCS with the tools needed to safeguard the integrity of the Medi- Cal program."

7) **Argument in Opposition**: According to *Doogri Institute*, who is opposed unless amended, "The proposed workgroup under SB 874 is structurally flawed. A body composed in significant part of Behavioral Health Treatment (BHT) industry stakeholders presents a clear risk of self-dealing (see Appendix C, corrective action plan). When participants' livelihoods depend on the outcome of the workgroup, impartiality cannot be meaningfully ensured. This is a structural conflict that undermines the credibility and defensibility of any resulting findings (see Appendix D, program integrity risks associated with BHT).

"Oversight of BHT practices must be conducted by independent, licensed allied health professionals who are not financially or professionally tied to the industry being evaluated. Only such professionals can objectively assess scope-of-practice boundaries, identify encroachment into regulated healthcare domains, and determine whether providers meet minimum standards of training in health and safety consistent with the Business and Professions Code (see Appendix B, documenting scope-of-practice gaps and childcare licensure deficiencies within BHT service delivery). This is not the time to formalize oversight through a process that lacks independence or methodological rigor, as federal scrutiny has already identified BHT billing as a high-risk category (see Appendix C; Appendix D, formal request for federal investigation of Medi-Cal ABA billing practices) . California should be strengthening safeguards, not delegating evaluative authority to interested parties."

8) **Related Legislation**:

   a) AB 277 (Alanis) would require a person who provides "BHT," as defined in existing law, for a behavioral health center, facility, or program, to undergo a background check except for a persons who holds a current and valid license issued by a California state licensing board, if the licensure process includes a finger-print based background check and the license is in good standing. AB 277 is pending a hearing Senate Appropriations Safety.

   b) AB 2796 (Committee on Public Safety) would make various changes to existing laws authorizing federal-level background checks to be conducted in relation to employment, volunteering and licensing. AB 2796 is pending a vote on the Assembly Floor.

9) **Prior Legislation**:

   a) AB 1715 (Holden), of the 2015-16 Legislative session, would have established a Behavior Analyst category of licensure to be administered by the Board of Psychology. AB 1715 was held in the Senate Committee on Business, Professions, and Economic Development.

b) SB 946 (Steinberg and Evans), Chapter 650, Statutes of 2011, required health plans and health insurers in California to cover BHT for individuals with autism spectrum disorder.

REGISTERED SUPPORT / OPPOSITION:

Support

California Association for Behavior Analysis
California Association of Health Plans
California Medical Association (CMA)
Local Health Plans of California

Opposition

Doogri Institute
1 Private Individual

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

Amended Mock-up for 2025-2026 SB-874 (Weber Pierson (S))

Mock-up based on Version Number 96 - Amended Assembly 6/3/26
Submitted by: Stella Choe, Assembly Public Safety Committee

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

SECTION 1. Section 14132.561 is added to the Welfare and Institutions Code, to read:

14132.561. (a) For the purposes of this section, "behavioral health treatment" or "BHT" has the same meaning as in Section 14132.56.

(b) On or before July 1, 2027, the department shall ensure that any ~~individual providing~~ ***provider of BHT*** services paid for by the Medi-Cal program ***conducts a state and national criminal background check on its employees who interact with patients according to departmental guidance.*** ~~who does not hold a current and valid license issued by a California state licensing board requiring a fingerprint-based background check shall undergo a background check pursuant to Section 11105.3 of the Penal Code. The department shall specify to employers of individuals providing BHT services how this information is to be collected and shared with the department prior to that date.~~

(c) The department shall convene a stakeholder workgroup in the first quarter of the 2027 calendar year. The workgroup shall include all of the following:

(1) BHT providers, which may include representatives of trade associations and licensing or certifying bodies, in addition to providers.

(2) Providers of other services to children with autism, including, but not limited to, speech and hearing specialists, occupational therapists, psychiatrists, and vision specialists.

(3) Managed care plans.

(4) Consumers with autism.

(5) Consumer advocates for organizations led by individuals with autism and organizations serving families of autistic children.

(6) The department may consult with the Department of Managed Health Care or invite that Department to the workgroup as well for purposes of coordination with the commercial market.

(d) The stakeholder workgroup shall review the implementation of BHT services in Medi-Cal, including applied behavior analysis and other evidence-based interventions. The workgroup shall advise the department on all of the following:

(1) Clinical guidelines for the provision of BHT services, including independent clinician assessment for treatment and reauthorization requirements.

(2) Treatment plan requirements, including the number of hours in a treatment plan, documentation of an individual's needs, and how treatment outcomes specific to the individual and the effectiveness of treatment are reviewed.

(3) Requirements for the provision of center-based services compared to services provided in the home, school, or otherwise in the child's natural environment to ensure only services that qualify as BHT services are billed.

(4) Supervision of unlicensed and uncertified professionals, including the number of hours of supervision required, location of the supervisor, and number of unlicensed professionals a licensed or board-certified professional may supervise. Consideration shall also be given to how such supervision is monitored.

(5) Standardization of Medi-Cal managed care plan documentation requirements, including credentialing.

(6) Best practices in prioritizing quality care in contracting with BHT services providers.

(7) Feasibility of requiring fingerprint-based criminal background checks of BHT service providers.

(e) The stakeholder workgroup shall meet no less than quarterly in the 2027 and 2028 calendar years. Workgroup meetings shall be open to the public and allow for public participation via comment or in writing.

(f) On or before January 1, 2028, the department shall release and maintain clear clinical guidance for the provision of the BHT benefit described in Section 14132.56. The guidance shall be consistent with federal recommendations on BHT services and Early and Periodic Screening, Diagnostic, and Treatment services for individuals under 21 years of age and shall include any modifications based on input from the stakeholder workgroup.

(g) On or before January 1, 2029, the department shall report to the Legislature and publish on its internet website, an analysis of the utilization of BHT services in California since 2014, a synopsis of changes made as a result of the stakeholder workgroup, and recommendations for statutory, regulatory, or administrative actions necessary to ensure Medi-Cal reimbursement practices align with federal Medicaid program integrity requirements. In creating this report, the department shall consider all of the following:

(1) Whether BHT services reimbursed under the Medi-Cal program meet federal Medicaid requirements governing rehabilitative services and Early and Periodic Screening, Diagnostic, and Treatment services.

(2) Whether the department and Medi-Cal managed care plans utilize uniform, publicly accessible, evidence-based clinical standards for determining medical necessity and treatment intensity.

(3) Whether reimbursed services include documented functional impairments, measurable treatment goals, and periodic assessment of clinical progress sufficient to demonstrate that services constitute therapeutic interventions covered under the Medicaid program.

(4) Whether the supervision standards for BHT services are equivalent to or greater than the supervision, observation, documentation, and clinical oversight requirements imposed on comparable health services in other allied health professions regulated under the Business and Professions Code.

(5) Whether any statutory changes are needed to require a fingerprint-based background check on BHT service providers.

(h) (1) The requirement for submitting a report imposed under subdivision (g) is inoperative on January 1, 2033, pursuant to Section 10231.5 of the Government Code.

(2) A report to be submitted pursuant to subdivision (g) shall be submitted in compliance with Section 9795 of the Government Code.

(i) Notwithstanding Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code, the department, without taking any further regulatory action, shall implement, interpret, or make specific this section by means of all-county letters, plan letters, plan or provider bulletins, or similar instructions.

Date of Hearing: June 30, 2026
Counsel: Mary Kennedy

ASSEMBLY COMMITTEE ON PUBLIC SAFETY
Nick Schultz, Chair

SB 884 (Umberg) – As Amended May 14, 2026

SUMMARY: For elections through 2029, this bill makes a number of changes regarding mail-in ballots and activities near a polling place, including limiting the ability of law enforcement to make arrests during voting hours. Specifically, **this bill**:

1) Provides that a law enforcement officer shall not arrest any person within 200 feet of a polling place on election day during the time in which the polling place is open, except for a crime related to disrupting the operation of the polling place, a crime against a person, or a crime against property.

2) Provides that the bill's provisions do not provide legal amnesty for any crime committed within the buffer zone on election day.

3) Provides that the prohibition on electioneering may be expanded by a county board of supervisors to up to 200 feet of either of the following:

   a) The entrance to a building that contains a polling place, an elections official's office, or a satellite location; or,

   b) An outdoor site, including a curbside voting area, at which a voter may cast or drop off a ballot.

4) Provides that a law enforcement officer shall abide by and enforce the provisions relating to buffer zones and should notify the Secretary of State and Attorney General of a suspected, planned, or actual violation of the provisions.

5) States that a violation of the extended buffer zone would be punishable as a misdemeanor.

6) Provides that on election day, a county official may extend the time for closing polls at any polling place if the county elections official determines, in the official's discretion that the voting at the polling place was disrupted as a result of a violation of the prohibition against arrests in or electioneering in this bill. If the time is extended, all votes cast during that time shall be by provisional ballot and held apart from other provisional ballots.

7) Provides that a county shall provide at least two vote-by-mail ballot drop-off locations within the county or at least one vote-by-mail (VBM) ballot drop-off location for every 11,250 registered voters, whichever results in more VBM ballot drop-off locations.

8) Provides that a county with fewer than 11,250 registered voters shall provide at least one VBM ballot drop-off location.

9) Requires VBM ballot drop-off locations to be open at least during regular business hours beginning not less than 30 days before the election and continuing through the day of the election.

10) Provides that a VBM ballot is timely cast if it is received by the voter's elections official via the US Postal Service or a Bonafide mail delivery company no later than 10 days after the election if either of the following is satisfied:

    a) The ballot is postmarked on or before the election day or is time stamped by a bona fide private mail delivery company on or before the election day; or,

    b) The ballot has no postmark, a postmark with no date, or an illegible postmark, and no other information from the US Postal Service or the mail company, the vote by mail ballot envelope is date stamped upon receipt and is signed and dated on or before election day.

11) Provides that on election day, a county official may extend the time for closing polls at any polling place if the county elections official determines, in the official's discretion that the voting at the polling place was disrupted as a result of a violation of the prohibition against arrests in or electioneering in this bill.

12) Contains the following findings and declarations:

    a) Free, fair, and secure elections are fundamental to democracy, and all eligible voters must be able to cast a ballot without fear of intimidation, interference, or disruption.

    b) Certain crimes have less exigent circumstances than others and the value of arresting and detaining those accused is outweighed by the harm it creates in sensitive areas like polling places.

    c) Existing law prohibiting within 100 feet of polling places to protect voters from undue influence and intimidation while exercising their right to vote.

    d) Recent actions to weaponize law enforcement authority for political purposes, such as Sheriff Chad Bianco's seizure of ballots in Riverside County, have given rise to unprecedented concerns about law enforcement interference in the 2026 general election.

    e) Government officials and political allies have publicly discussed deploying law enforcement officers near polling places, creating serious concerns about voter intimidation and unlawful interference with the right to vote.

    f) During the November 2025 special election, the United States Department of Justice deployed personnel to monitor polling sites in five California counties, including Fresno, Kern, Los Angeles, Orange, and Riverside, demonstrating that these threats are not merely hypothetical.

    g) Proposed legislation such as the SAVE Act and executive actions targeting vote-by-mail ballots may be rejected because of postal delays outside the voter's control, threatening ballot access for eligible voters across the state.

h) California must act to preserve the integrity of its elections by protecting polling places from intimidation, ensuring access to vote-by-mail ballots, and maintaining safe and secure access to the ballot box for every eligible voter.

13) Provides that county election officials are encouraged to use public buildings for polling places.

14) Provides, in the uncodified provisions, that the Governor is encouraged to use law enforcement to enforce this act.

15) States that its provisions are severable.

16) Contains an urgency clause.

EXISTING LAW:

1) Establishes procedures and requirements for conducting elections by mail. (Elec. Code, div. 4, §§ 4000 et seq.)

2) Establishes the minimum number of VBM drop-off locations a county must provide in connection with an election, including at least one ballot drop-off location for every 15,000 voters. (Elec. Code, § 4005.)

3) Provides that a VBM ballot is timely cast if it is received by the voter's elections official via the United States Postal Service or a bona fide private mail delivery company no later than seven days after election day, and the ballot is either postmarked as mailed on or before election day or the date is stamped "received" by the elections official with a date on or before election day. (Elec. Code, § 4103.)

4) Defines "electioneering" as the visible display or audible dissemination of information that advocates for or against any candidate or measure on the ballot, including, but not limited to, the following:

   a) A display of a candidate's name, likeness, or logo.

   b) A display of a ballot measure's number, title, subject, or logo.

   c) Buttons, hats, pencils, pens, shirts, signs, or stickers containing electioneering information

   d) Dissemination of audible electioneering information.

   e) Obstructing access to, loitering near, or disseminating visible or audible electioneering information at vote by mail ballot drop boxes. (Elec. Code, § 319.5(a).)

5) Provides that the activities described in (4) are prohibited within 100 feet of either of the following:

a) The entrance to a building that contains a polling place, an elections official's office, or a satellite location.

b) An outdoor site, including a curbside voting area, at which a voter may cast or drop off a ballot. (Elec. Code, § 319.5(a).)

6) Makes it a misdemeanor for any person, on election day or at any time a voter may be casting a ballot to within 100 feet of a polling place, a satellite location or an election official's office do any of the following:

a) Circulate an initiative, referendum, recall, or nomination petition or any other petition.

b) Solicit a vote or speak to a voter on the subject of marking his or her ballot.

c) Place a sign relating to voters' qualifications or speak to a voter on the subject of his or qualifications.

d) Do any electioneering as defined in Elections Code Section 319.5. (Elec. Code, §18370)

FISCAL EFFECT: Unknown

COMMENTS:

1) **Sponsor:** Author-sponsored

2) **Author's statement**: According to the author, "Our state is facing serious threats from the Trump administration, and we will not treat them as idle or theoretical. We know that the President Trump's allies seek to suppress voter turnout, especially among minority communities, by deploying ICE and military forces on election day. California has both the constitutional right and responsibility to run our own safe and secure elections, and we intend to do exactly that. These threats serve as a reminder that voting is a fundamental right that must be protected from intimidation and interference. In the interest of protecting this fundamental right and ensuring voters feel safe participating in our democracy, no law enforcement presence, including state or local, should be permitted near voting areas unless necessary to address a crime against persons or property. Given the expected federal interference with California's elections, SB 884 would also increase options to avoid physical polls by extending vote center service hours, increase the number of ballot drop boxes, and allow drop boxes to open earlier. SB 884 will protect our voters, defend local control, and uphold our democracy regardless of whether the federal government chooses to respect those principles."

3) **Background on the state's current VBM and electioneering laws:** As explained by the Senate Elections and Constitutional Amendments Committee's analysis of this bill:

> For the November 5, 2024, presidential general election, counties conducted elections using one of three models: vote centers, polling places, or all-mail. Each election model provides a different set of services for voters. For VBM ballots drop-off locations, counties using the vote center model needed to provide at least two VBM ballot drop-

off locations or one VBM ballot drop-off location for every 15,000 registered voters, whichever resulted in more locations. For counties using the polling place or all-mail model, at least two VBM ballot drop-off locations or one VBM ballot drop-off location for every 30,000 registered voters, whichever resulted in more locations. All VBM ballot drop-off locations needed to be open 28 days prior to and through Election Day.

According to data from the Secretary of State's office, 29 counties used the vote center model, 25 counties used the polling place model, and four counties used the all-mail model. In total, there were 1,968 VBM ballot drop-off locations throughout California…

A number of VBM ballots are rejected at every election for various reasons. A rejected ballot is a ballot not counted because of a missing signature, a noncomparing signature, the ballot was missing from the envelope, multiple ballots were returned in one envelope, the ballot was not received on time, the voter already voted, or there is a missing or incorrect address on the envelope. A ballot can also be rejected if a voter did not provide their driver's license number, identification card number, or last four digits of their social security number when registering to vote and did not provide a form of identification when voting for the first time. For the 2024 presidential general election, 33,016 ballots of the 122,480 total number of rejected ballots were rejected because the VBM ballot was not received on time…

The earliest reference to a 100-foot electioneering prohibition dates back to at least 1891 where the Political Code stated, "No officer of election, nor any person, shall do any electioneering on election day within one hundred feet of any polling place." The Political Code (which later became the Elections Code) from 1891 also stated, "No person shall solicit a vote or speak to a voter on the subject of marking his ticket within one hundred feet of the polling place." It should be noted that where the 100-foot prohibition is measured from has changed over time, but the actual number, 100 feet, has remained generally the same with some exceptions

4) **Temporary changes to election laws:** This bill makes a number of changes to law relating to elections for special and general elections being held between November 3, 2026, statewide election through any election held in 2029 or proclaimed in 2029.

5) **Counties authority to expand electioneering buffer zone and the accompanying misdemeanor:** Existing law provides for a 100 foot buffer zone around polling places and prohibits anyone from doing campaign related activities within that zone. Such activities can result in a misdemeanor. Where the 100 feet starts is usually well marked for those entering the polling places.

This bill would allow a county to expand that electioneering prohibition to 200 feet. This wider area would also be a misdemeanor if the prohibited activities occurred within that zone.

6) **Prohibition on arrests within 200 feet:** This bill provides that a law enforcement officer shall not arrest any person within 200 feet of a polling place on election day when the polls are open, except for a crime related to disrupting the polling place, a crime against a person, or a crime against property. The bill explicitly states that this prohibition does not grant immunity to a person who commits a crime within that 200 feet.

a) Buffer zone and arrest prohibition may not be the same

As noted in comment 4, this bill allows a county to expand the buffer zone from 100 to 200 feet but does not require it. Thus, if the buffer zone is not expanded, the area marked will be at 100 not 200 feet and an officer could make an arrest outside the 100 feet but within the 200 feet for an outstanding warrant not related to elections or any of the concerns behind this bill but the officer would be in violation of this provision. The author may wish to consider amending the new Section 404 created by this bill to refer to the electioneering prohibition zone in the county instead of 200 feet.

b) Doctrine of Intergovernmental Immunity

The United States "Constitution established a system of 'dual sovereignty.' (*Schirmer v. Edwards* (5th Cir. 1993 2 F. 3d 11; *Printz v. U.S.* (1997) 521 U.S. 898, 919.) The Constitution's Supremacy Clause provides that the Constitution and federal laws are the supreme law of the land. U.S. Const., art. VI, cl. 2. Section 8 of Article I of the United States Constitution enumerates Congress's specific powers, and the Tenth Amendment states that "powers not delegated to the Constitution, nor prohibited by it to the States, are reserved to the States respectively, or to the people." "This separation of the two spheres is one of the Constitution's structural protections of liberty…a healthy balance of power between the States and the Federal Government will reduce the risk of tyranny and abuse from either front." (*Printz* at 521 U.S. at p. 921 (internal quotation marks omitted).)

The interplay between Congress' enumerated powers and the states' retained powers makes the question of whether a state law conflicts with, and is therefore preempted by, a federal law, a complex one. A state law will be deemed preempted if it directly contradicts a federal law, but also if the state law stands as an obstacle to Congress's purpose or objectives. (see *Gade v. National Solid Waste Management Association* (1992) 505 U.S. 88, 98.) Additionally, the intergovernmental immunity doctrine of the Supremacy Clause prohibits state laws from discriminating against the federal government or burdening it in some way. (see *North Dakota v. U.S.* (1990) 495 U.S. 425, 436-438.) There is, however, a presumption against a finding that a state law is preempted: when determining whether a state law is preempted, "courts should assume that the historic police powers of the states are not superseded unless that was the clear and manifest purpose of Congress." (*Arizona v. U.S.* (2012) 567 U.S. 387, 400)

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 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 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 prohibits any law enforcement officer—federal, state, or local—from arresting any individual within 200 feet of a polling place, except for arrests for specified crimes. Because the bill applies to all law enforcement, and does not single out federal officers, this bill does not facially discriminate against the federal government. A challenge to this law, therefore, would likely turn on whether this restriction "affects incidentally the mode of carrying out federal employment or rather seeks to control federal functions."

7) **The United States Supreme Court's pending VBM case**: The United States Supreme Court is in the process of deciding whether federal law prohibits a state from accepting ballots that are postmarked on election day but received on a later date. In *Republican National Committee v. Wetzel*, (120 F.4th 200, cert. granted *sub nom. Watson v. Republican National Committee* (2025) 146 S.Ct. 355.) the United States Court of Appeals for the Fifth Circuit held that federal law fixing elections on a specific date preempts a Mississippi state law allowing ballots postmarked on election day, but received later, to be counted.(*Id.* at pp. 203-204.) The opinion relies on the Fifth Circuit's distinction between the "selection" and "election" of candidates; the judges on the panel believed that "it makes no sense to say the electorate as a whole has made an election and finally chosen a winner before all voters' selections are received," and therefore, all votes must be received by the end of election day.(*Id.* at p. 207.) The panel did not extend their logic to tallying votes; in their construction, "the result is fixed when all of the ballots are received and the proverbial ballot box is closed," but

"while election officials are still receiving ballots, the election is ongoing" because "the outcome is not yet fixed." (*Ibid*)

The State of Mississippi petitioned for a writ of certiorari in the Supreme Court. The petition argues that the Fifth Circuit erred because "[a]s a matter of plain meaning, an 'election' is the *conclusive choice* of an officer. Voters make that choice by casting—marking and submitting—their ballots by election day. The election has then occurred, even if election officials do not receive all ballots that day." (Petition for a Writ of Certiorari, *Watson v. Republican National Committee*, United States Supreme Court Case No. 24-1260, p. 1)

The Supreme Court granted the petition. The Court heard oral argument in the case on March 23, 2026. If the Court holds that federal law setting election day as the first Tuesday in November preempts state laws allowing ballots postmarked by election day but received on a later date, that opinion will invalidate both California's current law regarding ballots received after election day and the provisions of this bill allowing a ballot to be counted if it is postmarked by election day and received up to days later. As many have noted, a Supreme Court decision changing the election laws in at least 18 states and territories within half a year of a major federal election could create chaos in those states, as secretaries of state struggle to comply with the Court's new rules in time for the election. (see VanSickle, *Supreme Court Appears Poised to Reject Late-Arriving Mail-In Ballots Law* (Mar. 23, 2026; updated Mar. 24, 2026) New York Times, https://www.nytimes.com/2026/03/23/us/supreme-court-mail-in-ballots.html.)

8) **Argument in Support:** According to the *League of Women Voters of California*, "SB 884 builds on and complements SB 73 (Cervantes), which the LWVC supported, and the Governor signed into law on May 27, 2026. SB 73 restricts law enforcement access to certified voting technology, rosters, and voter lists, strengthens ballot custody protections, and prohibits law enforcement from interfering with election administration. SB 884 protects the polling place, the drop-off location, and the path the ballot travels through the mail. Together, the two bills form a coordinated response to the threats facing California's elections.

"SB 884 is a direct response to federal overreach and the misuse of law enforcement authority – real and escalating threats to California's elections. Under our constitutional system, states play the principal role in administering elections, subject to Congress's authority over federal elections.2 California has built a comprehensive framework to ensure that voters can cast their ballots free from intimidation and interference. SB 884 strengthens that framework precisely where it is most exposed: in the physical environment of the polling place and the path the ballot travels through the mail."

9) **Argument in Opposition:** According to the *California State Sheriffs' Association,*" The limitation on arrests proposed by this bill is worthy of opposition because it impedes local peace officers from enforcing state and local law. SB 884 creates an arbitrary buffer zone that, when polls are open, effectively becomes a safe haven where suspects cannot be arrested for various crimes like driving under the influence, indecent exposure, disorderly conduct, or even drug sales, if only for a few hours on a few days per year.

"More problematic though is what this bill appears to truly accomplish, which is to put state and local peace officers in the untenable position of having to stop federal agents from

carrying out their duties and attempting to use a new state law to shield state and local officers from obstructing federal affairs. The Legislature ought not direct California public servants to attempt to impede federal employees from enforcing federal law and doing so sets the stage for a constitutional collision with California peace officers squarely facing the consequences."

10) **Related legislation**

a) SB 73 (Cervantes), Chapter 10, Statutes of 2026, makes it an alternate-felony misdemeanor (wobbler) for a peace officer to establish the qualification of voters at an election, impose a rule for conducting any election, or interfere with the administration of any election, as specified, and expands the crime of specified uniformed persons being stationed at a polling place to include non-uniformed persons.

b) SB 91 (Cervantes) reduces the time period in which a county conducting an all-mailed ballot election must provide vote centers for in-person voting, from 10 days before the day of the election to 5 days. SB 91 is currently pending a hearing in Assembly Elections Committee.

c) SB 1418 (Cervantes) expands the provision that prohibits the destruction of any document that must be preserved after an election and any certified voting technology. SB 1418 is set to be heard in the Assembly Public Safety Committee.

11) **Prior Legislation**

a) SB 851 (Cervantes), Chapter 238, Statutes of 2025, made a number of changes to California's election laws to prevent interference in elections.

b) SB 406 (Choi), of the 2025-2026 Legislative Session, would have required vote-by-mail ballots to be returned to the applicable elections official no later than the close of the polls on election day, except where otherwise required by federal law, to be counted as timely. SB 406 died in the Senate Elections and Constitutional Amendments Committee.

c) SB 335 (Strickland), of the 2025-2026 Legislative Session, would have repealed the provisions requiring a county elections official to mail a ballot to every registered voter in the county, instead authorizing a voter to request a vote-by-mail ballot for any election, as specified. SB 335 failed passage in the Senate Elections and Constitutional Amendments Committee.

d) AB 930 (Ward), Chapter 282, Statutes of 2025, extended the time in which a vote-by-mail ballot that is postmarked on election day must be counted as timely when received by the county elections official, from three days after election day to seven days after the election.

e) AB 2624 (Berman), Chapter 533, Statutes of 2024, prohibited a person from intimidating, threatening, or coercing, or attempting to intimidate, threaten, or coerce, any other person for engaging in specified election-related activities, as specified.

f) SB 35 (Umberg), Chapter 318, Statutes of 2021, among other things, expanded the categories of conduct that constitute "electioneering" for purposes of the prohibition on electioneering within 100 feet of specified voting locations.

g) AB 37 (Berman), Chapter 312, Statutes of 2021, required county elections officials to mail a ballot to every active registered voter for all elections, and makes changes to VBM processes, procedures, and requirements, including requiring at least two vote-by-mail drop-off locations within the jurisdiction or at least one drop-off location per 30,000 registered voters within the jurisdiction.

REGISTERED SUPPORT / OPPOSITION:

Support

Black American Political Association of California (BAPAC) Sacramento Chapter
California Community Foundation
California Federation of Labor Unions, Afl-cio
California Public Defenders Association
California School Employees Association
California State Treasurer
County of Santa Barbara
Disability Rights California
Indivisible CA Statestrong
Latino Community Foundation
League of Women Voters of California
No Ice Marin Coalition
Unidosus

Opposition

California Association of Clerks & Election Officials
California Police Chiefs Association
California State Sheriffs' Association

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

Date of Hearing: June 30, 2026
Counsel: Ilan Zur

ASSEMBLY COMMITTEE ON PUBLIC SAFETY
Nick Schultz, Chair

SB 907 (Archuleta) – As Amended May 18, 2026

SUMMARY: Subjects a person convicted of a specified felony impaired driving crime to a three-year sentence enhancement for each prior specified impaired driving conviction, increases the punishment for fleeing the scene of an accident for a person with a prior specified driving conviction, and expands the circumstances when a court must issue a Watson Advisement. Specifically, **this bill**:

1) Requires a court, for certain impaired driving crimes, to impose a three-year sentence enhancement for each prior specified impaired driving crime, as follows:

   a) Requires a court, if a person is convicted of: 1) a felony driving under the influence (DUI);[1] 2) felony DUI causing bodily injury; 3) DUI with three or more priors;[2] 4) DUI or DUI causing bodily injury (any DUI) within 10 years of certain felonies (a DUI with three or more priors, a DUI causing bodily injury, or gross vehicular manslaughter); 5) any DUI with a prior conviction for gross intoxicated vehicular manslaughter, felony intoxicated vehicular manslaughter with ordinary negligence, or intoxicated vehicular manslaughter with gross negligence involving a vessel; 6) gross intoxicated vehicular manslaughter; or 7) intoxicated vehicular manslaughter with ordinary negligence, where a prison sentence or jail-eligible felony sentence is imposed and not suspended, to impose, in addition and consecutive to any other sentence, a three-year term for each prior and separate conviction for any of these same offenses.

   b) States that this term shall not be imposed for a prior conviction that occurred before a period of 10 years in which the defendant remained free of the commission of an offense resulting in a felony conviction and prison custody, or the imposition of a term of jail custody imposed from a jail-eligible felony or any felony sentence that is not suspended.

2) Increases the punishment for fleeing the scene of an accident if that person has been convicted of a prior specified vehicle crime, as follows:

   a) For a driver involved in an accident that results in injury to another from an alternate felony-misdemeanor (wobbler) punishable by 16 months, two years, or three years in state prison, to a straight felony punishable by imprisonment in state prison for two, three, or four years, if the violation occurred within 10 years of a wet reckless,[3] DUI, DUI

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[1] For purposes of this analysis, a "DUI" refers to a DUI punishable under Vehicle Code section 23152 that does not cause bodily injury. "A DUI causing bodily injury" to another is punished separately under Vehicle Code section 23153.
[2] For purposes of this analysis and unless otherwise specified, a "prior" means a separate DUI conviction under Vehicle Code sections 23152 (DUI), 23153 (DUI causing bodily injury), or a "wet reckless" conviction under 23103.5 (plea to reckless driving in satisfaction of an original DUI charge) that occurred within 10 years of the current violation. (*See e.g.,* Veh. Code, § 23550, subd. (a).)
[3] A wet reckless conviction occurs where the prosecution agrees to a plea to a charge of reckless driving under Vehicle Code 23103, in satisfaction of, or as a substitute for, an original DUI charge, as specified. (Veh. Code, § 23103.5.)

causing bodily injury, any intoxicated vehicular manslaughter offense, or gross vehicular manslaughter that resulted in a conviction.

b) For a driver involved in an accident that results in death or permanent, serious injury to another from a wobbler punishable by up to two, three, or four years in state prison, to a straight felony punishable by two, four, or six years in state prison, if the violation occurred within 10 years of a separate violation for a hit-and-run eligible prior that resulted in a conviction.

c) For a driver involved in an accident resulting only in property damage from a misdemeanor punishable by up to six months in county jail, to a wobbler punishable by up to one year in a county jail or by imprisonment for 16 months, two years, or three years in state prison, if the violation occurred within 10 years of a separate violation of a hit-and-run eligible prior that resulted in a conviction.

3) Expands the circumstances under which a court must issue a "Watson Advisement," a judicial advisement informing a person, among other things, that if they continue to drive under the influence and kill someone, they can be charged with murder, to include when a court dismisses an allegation of DUI, or when a defendant pleads guilty or no contest to a different or lesser offense as a substitute for an alleged violation of DUI.

EXISTING LAW:

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

2) Punishes DUI as follows:

a) DUI is a misdemeanor punishable by imprisonment for four days to six months in county jail, a fine of $390 to $1,000, an order to install an ignition interlock device (IID) on any vehicle that person operates for up to six months,[4] at the court's discretion, a six-month license suspension or a 10-month suspension if probation is given and a 9-month DUI program is ordered, and completion of a specified DUI program. (Veh. Code, §§ 13352, subd. (a)(1); 13352.1, subd. (a); 23536, subds. (a) & (c); 23538, subds. (a) & (b); 23575.3, subd. (h)(1)(A)(i).)

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

c) DUI with two priors is a misdemeanor punishable by imprisonment for four months to one year in county jail, a fine of $390 to $1,000, a two-year IID installation mandate, a

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[4] Only if the offense involved alcohol.

three-year license revocation, and a three-year designation as a habitual traffic offender, and an 18- or 30-month DUI program, as specified, if given probation and at the court's discretion. (Veh. Code, §§ 13352, subd. (a)(5); 23546; 23548, subds. (a) & (b); 23575.3, subd. (h)(1)(C).)

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

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

4) Punishes a DUI causing bodily injury as follows:

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

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

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

5) Establishes additional punishment for a DUI that injures or kills more than one victim, a DUI with prior specified felonies, and a DUI that causes certain injury, as follows:

a) Provides that a person who is convicted of DUI causing bodily injury or intoxicated vehicular manslaughter, which proximately causes bodily injury or death to more than one victim and results in a felony conviction, shall receive a one-year sentence

enhancement in state prison for each additional victim injured (maximum of three). (Veh. Code, § 23558.)

b) Makes a person convicted of DUI causing bodily injury, where the violation proximately causes great bodily injury (GBI) to another person, and the offense occurred within 10 years of two or more priors guilty of a felony, punishable by two, three, or four years in state prison, a five-year license revocation, and a three-year IID installation mandate. (Veh. Code, §§ 23566, subd. (b); 13352 subd. (a)(6).)

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

d) Punishes a person convicted of any DUI within 10 years of specified felonies –DUI with three or more priors, DUI causing bodily injury, or gross vehicular manslaughter – as a wobbler with a four or five-year license revocation and a three or four-year IID mandate. (Veh. Code, §§ 13352 subd. (a)(6)-(7); 23550.5, subds. (a), (c) & (d).)

e) Punishes a person convicted of any DUI who has a prior felony conviction for intoxicated vehicular manslaughter with gross negligence, intoxicated vehicular manslaughter with ordinary negligence, or intoxicated vehicular manslaughter while operating a vessel, as a wobbler with a four or five-year license revocation and a three or four-year IID mandate. (Veh. Code, §§ 13352 subd. (a)(6)-(7); 23550.5, subds. (b), (c) & (d).)

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

7) Establishes penalties for fleeing the scene of the accident, as follows:

a) Requires a driver of a vehicle involved in an accident resulting only in damage to property, including vehicles, to immediately stop the vehicle at the nearest location that will not impede traffic or otherwise jeopardize the safety of other motorists, and perform certain duties, and makes a violation of this requirement a misdemeanor, punishable by up to six months in county jail, a fine of up to $1,000, or by both. (Veh. Code, § 20002.)

b) Requires the driver of a vehicle involved in an accident that results in injury or death to another person to immediately stop the vehicle at the scene of the accident and to fulfill specified requirements, including providing identifying information and rendering reasonable assistance. (Veh. Code, §§ 20001, subd. (a); 20003.)

c) Provides that fleeing the scene of an accident resulting in injury to another is punishable by 16 months, two, or three years in state prison or, by imprisonment in a county jail not to exceed one year, or by a fine of not less than $1,000 nor more than $10,000, or by both

a fine and imprisonment. (Veh. Code, § 20001, subd. (b)(1).)

d) Provides that fleeing the scene of an accident which results in permanent, serious injury or death to another is punishable by imprisonment in prison for two, three, or four years, or in county jail for 90 days to one year, or by a fine between $1,000 and $10,000, or by both a fine and imprisonment. (Veh. Code, § 20001, subd. (b)(2).)

FISCAL EFFECT: Unknown

COMMENTS:

1) **Sponsor:** Orange County District Attorney, Los Angeles County District Attorney, Mothers Against Drunk Driving, CA Safe Roads Coalition

2) **Author's Statement**: According to the author, "California has fallen behind the nation in addressing drunk and impaired driving, putting our citizens at risk. This is unacceptable and a disservice to all Californians. SB 907 sends a clear message: California will no longer prioritize protecting the repeat, serial offenders that terrorize our streets over victims of drunk driving. SB 907 strengthens California's DUI enforcement and sentencing laws, particularly for repeat offenders. The bill includes three provisions that will protect California families from drunk drivers, improve road safety, hold repeat serial offenders accountable, and close loopholes in existing law. SB 907 shows California that their government takes our drunk driving epidemic seriously and we are committed to making our roads safe and prevent the types of tragedies that have become all too common. Having lost my own Granddaughter to a drunk driver, I have seen first hand the failures of our current system and know California must stand up for families and stand up for victims."

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

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[5] OTS, *California Annual Report: Fiscal Year 2024*, p. 30, (2024) ,https://www.ots.ca.gov/wp-content/uploads/sites/67/2025/09/FY-2024-Annual-Report-Final-7.31-ALT-TEXT.pdf [as of June 25, 2026].
[6] OTS, *California's Annual Report 2018*, p. 11, (2018) < https://www.ots.ca.gov/wp-content/uploads/sites/67/2019/06/2018-Annual-Report.pdf> [as of June 25, 2026]. OTS, *California Traffic Safety Quick Stats* (accessed February 4, 2026) <https://www.ots.ca.gov/ots-and-traffic-safety/score-card/> [as of June 25, 2026].
[7] OTS, *California's Annual Report 2018*, at p. 11; OTS, *2025 Traffic Safety Fact Sheet: Alcohol-Impaired and Alcohol-Involved Driving* (2025) <https://safetrec.berkeley.edu/2025-safetrec-traffic-safety-facts-alcohol-impaired-and-alcohol-involved-driving> [as of June 25, 2026].
[8] OTS, *California's Annual Report 2018*, at p. 11; OTS, *2025 Traffic Safety Fact Sheet: Occupant Protection and Child Passenger Safety* (2025) <https://safetrec.berkeley.edu/2025-safetrec-traffic-safety-facts-occupant-protection-and-child-passenger-safety> [as of June 25, 2026].
[9] OTS, *California's Annual Report 2018*, at p. 11; OTS, *2025 Traffic Safety Fact Sheet: Pedestrian Safety* (2025) <https://safetrec.berkeley.edu/2025-safetrec-traffic-safety-facts-pedestrian-safety> [as of June 25, 2026].
[10] OTS, *California's Annual Report 2018*, at p. 11; OTS, *2025 Traffic Safety Fact Sheet: Speeding-Related and Other Crashes* (2025) <https://safetrec.berkeley.edu/2025-safetrec-traffic-safety-facts-speeding-related-and-other-crashes> [as of June 25, 2026].
[11] OTS, *California's Annual Report 2018*, at p. 11; OTS, *2025 Traffic Safety Fact Sheet: Motorcycle Safety* (2025) <https://safetrec.berkeley.edu/2025-safetrec-traffic-safety-facts-motorcycle-safety> [as of June 25, 2026].

reversing. Total fatalities decreased by 1.9% from 2021 to 2022,[12] and again by 11% from 2022 to 2023.[13] Alcohol-impaired fatalities similarly decreased by 4.5% from 2022 to 2023.[14]

Alcohol and drug-involved crash fatalities, which have historically comprised a significant portion of total crash fatalities, peaked at 2,065 in 2005, before declining to a multi-decade low of 1,416 in 2010.[15] DUI crash fatalities then increased by about 32% from 2010 to 2021,[16] despite comprising an increasingly lower proportion of total crash fatalities. In 2013, DUI crash fatalities were responsible for 54.7% of all crash fatalities; in 2021, 41.7%.[17] That is the lowest proportion of total crash fatalities since 2001.[18] Further, non-alcohol-involved crash fatalities increased from 2010 to 2021 by an alarming 88% percent.[19] This indicates that vehicle safety factors, other than alcohol-involved impaired driving, are playing a significant role in driving California's increase in crash fatalities.

The increase in DUI fatalities has coincided with a significant decline in DUI arrests and convictions. In 2010, when impaired fatalities were at a multi-decade low, there were 195,879 DUI arrests and 148,042 DUI convictions in California.[20] Between 2010 and 2021, DUI arrests and convictions decreased by approximately 44% and 45%, respectively.[21] From 2011 to 2021, the DUI arrest rate per 100,000 licensed drivers decreased from 752 to 401.[22] This decrease in DUI arrests and convictions, considered alongside the significant increase in DUI fatalities, suggests a reduction in the enforcement of California's DUI laws.

4) **California's DUI Framework: Increased Penalties for Repeat Offenders**: Under California's statutory DUI framework, the punishment for a DUI or DUI causing bodily injury increases with each "prior" DUI conviction within 10 years of the current offense. (See, e.g., Veh. Code, § 23540, subd. (a).) Prior convictions include a DUI, a DUI causing bodily injury, and a wet reckless plea under Vehicle Code section 23103.5. (Veh. Code, §§ 23540; 23546; 23550; 23560; 23566.)[23] A DUI occurs if a defendant drives a vehicle under the influence of any alcoholic beverage or drug, or under the combined influence of any alcoholic beverage and drug, or who has 0.08 percent or more, by weight, of BAC in their blood. (Veh. Code, § 23152 subds. (a), (b) (f), & (g).) If, while under the influence, the person concurrently does any act forbidden by law or neglects any duty in driving the vehicle, which proximately causes bodily injury to any person other than the driver, that person is guilty of DUI causing bodily injury. (Veh. Code, § 23153 subds. (a), (f), & (g).) A wet reckless occurs where the prosecution agrees to a plea to reckless driving in satisfaction of, or as a substitute for, an original DUI charge. (Veh. Code, § 23103.5.)

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[12] OTS, *California Annual Report: Fiscal Year 2024*, at p. 8
[13] OTS, *California Traffic Safety Quick Stats* (accessed February 4, 2026) <https://www.ots.ca.gov/ots-and-traffic-safety/score-card/> [as of June 25, 2026].
[14] *Ibid.*
[15] State of California DMV, *DUI Summary Statistics* (accessed February 3, 2026) <https://www.dmv.ca.gov/portal/dmv-research-reports/research-development-data-dashboards/dui-management-information-system-dashboards/dui-summary-statistics/> [as of June 25, 2026].
[16] *Ibid.*
[17] *Ibid.*
[18] *Ibid.*
[19] *Ibid.*
[20] State of California DMV, *DUI Summary Statistics* (accessed February 3, 2026) <https://www.dmv.ca.gov/portal/dmv-research-reports/research-development-data-dashboards/dui-management-information-system-dashboards/dui-summary-statistics/> [as of June 25, 2026].
[21] *Ibid.*
[22] DMV, 32nd Annual Report of the California Dui Management Information System (2025), at p. 6 <https://www.dmv.ca.gov/portal/uploads/2025/10/32nd-Annual-Report-of-the-California-DUI-Managment-Information-System.pdf> [as of June 25, 2026].
[23] A wet reckless plea is only considered a prior if the prosecution's statement states that the defendant consumed alcohol or ingested a drug in connection with the offense. (Veh. Code, § 23103.5, subd. (c).)

A first-time DUI not causing bodily injury is punishable by imprisonment for four days to six months in county jail, a fine of $390 to $1,000, a possible six-month IID installation order, a six- to 10-month license suspension, and, if given probation, completion of a three- or nine-month DUI program. (Veh. Code, §§ 13352, subd. (a)(1); 13352.1, subd. (a); 23536, subds. (a) & (c); 23538, subds. (a) & (b); 23575.3, subd. (h)(1)(A)(i).) A DUI with one prior is punishable by imprisonment for three months to one year in county jail, a $390 to $1,000 fine, a one-year IID mandate, a two-year license suspension, and, if given probation, completion of an 18- or 30-month DUI program. (Veh. Code, §§ 13352, subd. (a)(3); 23540, subd. (a); 23542, subds. (a) & (b); 23575.3, subd. (h)(1)(B).) A DUI with two priors is punishable by imprisonment for four months to one year in county jail, a $390 to $1,000 fine, a two-year IID mandate, a three-year license revocation, and, if given probation, a possible 18- or 30-month DUI program. (Veh. Code, §§ 13352, subd. (a)(5); 23546; 23548, subds. (a) & (b); 23575.3, subd. (h)(1)(C).) A DUI with three or more priors is a wobbler, punishable by imprisonment for six months to one year in county jail, or as a jail-eligible felony by 16 months, two years, or three years. (Veh. Code, § 23550.) Additionally, this offense is subject to a $390 to $1,000 fine, a three-year IID mandate, a four-year license revocation, and, if given probation, a possible 18- or 30-month DUI program. (Veh. Code, §§ 13352, subd. (a)(7); 23550; 23552, subds. (a) & (b); 23575.3, subd. (h)(1)(D).)

DUIs that cause bodily injury are punished separately and more severely. A first-DUI causing bodily injury and DUI causing bodily injury with one prior are wobblers punishable by imprisonment for 90 days to one year in jail or 16 months, two years, or three years in state prison. (Veh. Code, §§ 23554; 23560.) However, a DUI causing bodily injury with two or more priors is a straight felony punishable in state prison by imprisonment for two, three, or four years. (Veh. Code, §§ 23560; 23566; 23568, subds. (a) & (b).)

In addition to the incrementally greater criminal penalties associated with each ordinary prior, certain more severe prior impaired driving crimes trigger even greater penalties. In practice, certain prior felony impaired driving offenses, among other crimes, convert an otherwise misdemeanor DUI into a wobbler. (Veh. Code, § 23550.5, subd. (a).)

5) **Three-Year Sentence Enhancement:**

a) Effect of this Provision

This bill requires a court, if a person is convicted of one of the impaired driving crimes listed above, to impose a three-year sentence enhancement, in addition to and consecutive to any other sentence, for each prior conviction for any of these same offenses. This would only apply if a felony prison sentence or jail-eligible felony sentence for the current offense is imposed and not suspended. Each enhancement must be imposed, in addition to and consecutive to any other sentence.

Enhancements only apply if the current offense is sentenced as a felony. However, the list of prior offenses that require a three-year enhancement includes crimes that are wobblers, even if those wobblers were ultimately charged and sentenced as a misdemeanor. Prior wobbler offense that could receive a three-year enhancement include a DUI with three or more priors, any DUI within 10 years of a prior specified felony, any DUI with a prior conviction for specified intoxicated vehicular manslaughter crimes, and a conviction for intoxicated

vehicular manslaughter with ordinary negligence (Veh. Code, §§ 23550; 23550.5, subds. (a) & (b); Pen. Code, § 191.5, subd. (c)(2).) Under this bill, a person convicted and sentenced for a felony DUI crime, who has a prior misdemeanor conviction under any of these wobblers, would receive a three-year sentence enhancement for each of those prior offenses, in addition to and consecutive to the term for their current offense.

This enhancement would not apply to "any prior conviction suffered prior to a period of 10 years in which the defendant remained free of both the commission of an offense that results in a felony conviction, and prison custody or the imposition of a term of jail custody imposed [as a jail eligible felony] or any felony sentence that is not suspended."

b) Duplicative Criminal Penalties

Almost all of the sentence-enhancing triggering priors proposed by this bill already trigger heightened punishment for a DUI offender. A DUI and DUI causing bodily injury are considered standard priors under California's DUI framework. (Veh. Code, §§ 23540; 23546; 23550; 23560; 23566.) In addition to the penalty increases associated with ordinary priors, existing law singles out certain more severe priors to trigger even greater punishment. (Veh. Code, § 23550.5, subds. (a)-(b).) More severe priors, namely a felony DUI with three or more priors, felony DUI causing bodily injury, gross vehicular manslaughter, gross intoxicated vehicular manslaughter, and felony intoxicated manslaughter with ordinary negligence, function to convert subsequent otherwise misdemeanor DUI offenses into felony-eligible crimes. (*Ibid.*) This bill requires each prior felony to additionally trigger a three-year enhancement.

For example, under existing law, a DUI with one prior is typically a misdemeanor punishable by three months to one year in county jail. (Veh. Code, § 23540.) If that prior is a more severe prior, such as a felony DUI causing bodily injury, the current offense becomes a wobbler punishable by up to three years in state prison. (Veh. Code, § 23550.5, subd. (a).) Under this bill, if the current offense results in the imposition of a felony sentence, the prior offense for a felony DUI causing bodily injury also triggers a three-year sentence enhancement, in addition to converting the current offense into a potential felony charge.

These duplicative penalty increases could substantially lengthen prison sentences. For example, consider a person convicted and sentenced for a felony DUI causing bodily injury with two prior felony DUI offenses within the prior ten years. A first-time DUI causing bodily injury is punishable as a wobbler. (Veh. Code, § 23554).) Under existing law, those two priors increase the punishment for the DUI causing bodily injury from a wobbler punishable by imprisonment of up to three years to a straight felony punishable by up to four years. (Veh. Code, § 23566, subd. (a).) This bill would then add a three-year sentence enhancement for each of those two priors.

For individuals with substance use problems who have accumulated numerous DUI convictions, the increase in the total sentence would be significant. Consider a person who commits five DUIs within 10 years, the first of which caused injury and was punished as a felony, and the rest of which did not cause injury. Under current law, that person's second, third, fourth, and fifth DUIs not causing injury are wobblers. (Veh. Code, § 23550.5, subd. (a).) A person's fifth DUI, not causing injury, would similarly be punishable as a wobbler by imprisonment for up to three years, either as a DUI with three or more priors or as a DUI

within 10 years of a prior impaired driving felony. (Veh. Code, §§ 23550; 23550.5, subd. (a).) This bill would require, for a current fifth offense, that each of that person's prior four DUIs receive three-year sentence enhancements. This would be the case even if that person's second, third, and fourth offenses were all DUIs not involving injury that resulted in misdemeanor convictions. Ultimately, this would require the imposition of four separate three-year enhancements, in addition to up to three years in state prison.

Given that a prior DUI offense already triggers increased punishment, and certain more severe priors already trigger even greater penalties, imposing additional three-year enhancements for specified priors may be duplicative and could result in arguably excessive incarceration terms.

c) Inconsistency in the Law

Under this bill, a prior impaired driving crime triggers an enhancement unless the prior conviction occurred before a period of 10 years during which the defendant remained out of prison and free of a new felony conviction. This permits criminal conduct unrelated to impaired driving to extend the washout period to encompass DUI crimes more than 10 years apart. This could encompass convictions that occurred upwards of 20 years ago, depending upon the defendant's criminal conduct between their DUI offenses. For example, a person convicted of a felony DUI in 2026, who was previously convicted of a felony DUI seventeen years ago in 2009, could still be subject to a three-year sentence enhancement under this bill if, for example, they were sentenced to prison for a new non-driving-related felony in 2017. Such a person would not have remained out of prison custody and free of a new felony conviction for 10 years, and therefore, the prior conviction would trigger the three-year enhancement proposed by this bill. In contrast, under the current DUI framework, the 2009 felony DUI conviction would "wash out" because it did not occur within 10 years of the DUI conviction in 2026. (See, e.g., Veh. Code, § 23540, subd. (a).)

The need to establish a three-year sentence enhancement for prior impaired driving offenses that are subject to a different and lengthier washout period than the existing standard DUI washout period is unclear.

d) Existing Sentence Enhancements For Impaired Driving Crimes

Impaired drivers can also receive sentence enhancements depending on the conduct and circumstances of the offense. For example, a person convicted of a felony DUI causing injury with bodily injury or death to more than one victim can receive a one-year enhancement for each additional victim (maximum of three victims). (Veh. Code, § 23558.) There is a three-year enhancement if a person is convicted of the felony DUI causing bodily injury that proximately causes GBI and that occurred within 10 years of two or more priors; if the underlying offense occurred within 10 years of four or more priors, that person receives an additional three-year prison enhancement. (Veh. Code, § 23566, subds. (b) & (c).) A person convicted of a felony DUI may receive a three-year sentence enhancement if they personally inflicted GBI in the commission of the offense. (Pen. Code, § 12022.7, subds. (a) & (g); 23554; *See e.g., People v. Wilson* (2003) 114 Cal.App.4th 953, 956; *People v. Sainz* (1999) 74 Cal.App.4th 565, 576.) An impaired driver who kills someone and flees the scene of the accident may face a five-year sentence enhancement. (Veh. Code, § 20001, subd. (c).) An impaired driver who causes significant property damage may also be subject to sentence

enhancements. If a person takes, damages, or destroys property in the commission of a felony, that person receives an enhancement of between one and four years, depending on the loss or property value affected. (Pen. Code, § 12022.6, subds. (d).)

Additionally, certain impaired driving crimes may be subject to enhanced penalties under California's Three Strikes law. The Three Strikes law requires a person who is convicted of a felony and who has previously been convicted of one or more "violent" or "serious" felonies, known as strikes, to be subject to an alternative sentencing scheme. Specifically, if the person has one prior strike, the sentence on any new felony conviction must be double what is specified by statute. (Pen. Code, § 667, subd. (e)(1.) If the person has two prior strikes, the sentence for the third strike is 25 years to life. (Pen. Code, § 667, subd. (e)(2.)

Certain impaired driving crimes already qualify as a serious or violent felony. Murder is both a violent and serious felony. (Pen. Code, §§ 667.5, subd. (c)(1); 1192.7, subd. (c)(1).) An impaired driver who kills a person while driving, where the conduct involves implied malice, may receive a strike for a second-degree murder conviction. (Pen. Code, § 187; 190, subd. (a); CALCRIM 520 (2026); *People v. Watson* (1981) 30 Cal.3d 290, 300.) A serious felony also includes any felony in which the defendant personally inflicts GBI on a person other than an accomplice. (Pen. Code, § 1192.7, subd. (c)(1).) This includes intoxicated vehicular manslaughter crimes, gross vehicular manslaughter, or a DUI causing bodily injury if the offense involved the personal infliction of GBI. (Pen. Code, § 1192.8, subd. (a).)

6) **Increased Penalties for Fleeing the Scene of an Accident**: The offenses described in Vehicle Code sections 20001-20002 are commonly known as "hit and runs." To prove a violation of a hit and run the prosecution must establish that: (1) the defendant was involved in a vehicle accident while driving; (2) the accident caused damage to another's property or permanent, serious injury or death to another; (3) the defendant knew that they were involved in an accident that property damage or injured another, or knew from the nature of the accident that it was probable that such damage or injury occurred; and, (4) the defendant willfully failed to perform specified duties. (CALCRIM 2140, 2150 (2026).)

The hit and run statute "merely addresses the duties of a driver, however otherwise innocent, once the accident and its attendant injuries have occurred." (People v. Wood (2000) 83 Cal.App.4th 862, 866.) "The purpose of [the statute] is to prevent the driver of an automobile from leaving the scene of an accident in which he participates or is involved without proper identification and to compel necessary assistance to those who may be injured. The requirements of the statute are operative and binding on all drivers involved in an accident regardless of any question of their negligence respectively." (People v. Scofield (1928) 203 Cal. 703, 708.) This does not require that a person drive impaired, recklessly, or negligently. A driver's duties apply regardless of who was at fault for the accident.

If the accident results only in property damage, it is a misdemeanor punishable by up to six months in county jail. (Veh. Code, § 20002.) If the accident results in injury to another person, it is punishable by up to one year in county jail or 16 months, two, or three years in state prison. (Veh. Code, § 20001, subd. (b)(1).) However, if the accident results in death or permanent serious injury, it is punishable by 90 days to one year in county jail, or by two, three, or four years in state prison. (Veh. Code, § 20001, subd. (b)(2).)

This bill increases the punishment for fleeing the scene of the accident if the driver has

previously been convicted of certain driving crimes within 10 years of the current hit-and-run offense. The specific offenses that would trigger such increased penalties are a wet reckless, DUI, DUI causing bodily injury, any intoxicated vehicular manslaughter offense, and gross vehicular manslaughter. For the crime of fleeing the scene of an accident resulting only in property damage, any of these prior convictions would increase the punishment for the offense from a misdemeanor to a wobbler punishable by up to three years in state prison. For the crime of fleeing the scene of an accident resulting in injury, a prior specified conviction would increase the punishment for the offense from a wobbler to a straight felony punishable by up to four years in state prison. For the crime of fleeing the scene of an accident resulting in death or permanent, serious injury, a prior conviction would increase the punishment for the offense from a wobbler to a straight felony punishable by up to six years in state prison.

This may contribute to inconsistency in the penalties for hit-and-runs. Currently, the penalties are proportionate to the level of harm caused. This bill makes a hit and run with a prior specified driving crime that results in injury a straight felony, while a hit and run resulting in permanent serious injury or death would remain a wobbler.

7) **Removal of Judicial and Prosecutorial Discretion for Hit and Runs**: Hit and runs involving injury, serious permanent injury, or death are wobblers; meaning prosecutors and courts have discretion to charge or reduce the offenses to a misdemeanor. (Pen. Code, § 17, subd. (b).) Judicial discretion permits courts to tailor the sentence based on the facts of the crime, the person's history, and the person's current circumstances. As stated by the California Supreme Court, "Society receives maximum protection when the penalty, treatment or disposition of the offender is tailored to the individual case." (*People v. Williams* (1970) 30 Cal.3d 470, 482 [citation and internal quotation marks omitted].) "Only the trial judge has the knowledge, ability and tools at hand to properly individualize the treatment of the offender." (*Ibid.*) This bill removes this discretion and makes these offenses straight prison felonies if the defendant has a specified driving conviction within 10 years.

   Fleeing the scene of the accident may encompass a wide range of offenders. Prosecutors and courts may find that felony charges are appropriate for a person who drove negligently and was the sole cause of an accident that caused serious injury or death. On the other hand, a court may find that misdemeanor charges are more appropriate for a person who was driving lawfully at the time of an accident that resulted in minimal injury, and there were other contributing causal factors that led to the accident. Removing this discretion may not be prudent.

8) **Expanding California's "Prior-Based" DUI Framework to Non-DUI Crimes**: As previously discussed, the penalties for a DUI offense increase based on prior DUI convictions within 10 years of the current offense. This bill similarly increases punishment for crimes that do not require impairment if the person has a prior conviction for numerous impaired driving offenses or the crime of gross vehicular manslaughter, within 10 years. While some hit-and-run drivers may be impaired and could be incentivized to flee to avoid detection, a hit-and-run does not require impairment. A hit and run and a DUI are distinguishable crimes. The Legislature may wish to consider whether it is prudent to expand California's prior-dependent DUI framework to apply to hit-and-run offenses that do not involve impaired driving.

9) **Expansion of Watson Warnings**: A person who kills someone while driving impaired can be prosecuted for second-degree murder. (Pen. Code, § 187; 190, subd. (a); CALCRIM 520 (2026); *People v. Watson* (1981) 30 Cal.3d 290, 300.) Murder is the unlawful killing of a human being or fetus with malice aforethought. (Pen. Code, § 187, subd. (a).) In *People v. Watson*, the California Supreme Court held that a person who kills someone while driving under the influence may be charged with second-degree murder if the facts support a finding of implied malice. (*People v. Watson*, *supra*, 30 Cal.3d at p. 295). Malice may be implied "when a person, knowing that his conduct endangers the life of another, nonetheless acts deliberately with conscious disregard for life." (Id. at p. 296.)

In 2004, the Legislature enacted AB 2173 (Parra), Chapter 502, Statutes 2004, with the stated intent of aiding prosecutors in proving implied malice in second-degree murder cases that arose out of DUI cases resulting in death by "making it clear that those individuals were aware of the danger they posed to others by drinking and driving as a result of the statement required by this bill which they signed after the original DUI conviction."[24] Vehicle Code section 23593, codified by AB 2173, requires the court to provide a person convicted of a wet reckless driving offense, DUI, or DUI causing bodily injury, with the following advisement:

> "You are hereby advised that being under the influence of alcohol or drugs, or both, impairs your ability to safely operate a motor vehicle. Therefore, it is extremely dangerous to human life to drive while under the influence of alcohol or drugs, or both. If you continue to drive while under the influence of alcohol or drugs, or both, and, as a result of that driving, someone is killed, you can be charged with murder." (Veh. Code, § 23593, subd. (a).)

This bill broadens the circumstances under which a court must issue a Watson Warning under Vehicle Code 23593. First, it requires the warning any time a court dismisses an allegation of a DUI, expanding these warnings to conduct that does not result in a conviction. Currently, courts only give Watson Warnings under Vehicle Code 23593 if a person is convicted of certain offenses. (Veh. Code, § 23593, subd. (a).) The term "allegation," as used in this bill, likely refers to allegations made in an accusatory pleading, such as a criminal complaint, that a person drove impaired in violation of Vehicle Code 23152. (Pen. Code, § 691, subd. (c).) This may require the warning for a person charged, but not convicted of, a DUI, whose case is later dismissed.

However, charging a person with a DUI does not establish that they engaged in unlawful impaired driving. For example, a DUI charge may be subsequently dismissed due to insufficient evidence. This is inconsistent with the existing basis for the warning, which presently requires convictions. (Cf. Health & Saf. Code, § 11369, subd. (b).) Further, the Watson Warning suggests that the defendant has already driven while under the influence, stating that "[i]f you *continue* to drive while under the influence…and, as a result of that driving, someone is killed, you can be charged with murder." (emphasis added). The warning may not be appropriate if the DUI charge is dismissed because the facts do not support that the person was unlawfully impaired.

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[24] (Assem. Com. on Pub. Safety, Analysis of Assem. Bill No. 2173 (2003-2004 Reg. Sess.) as introduced February 18, 2004, p. 4.)

10) **Other Penalties for Conduct Addressed by this Bill:** California's impaired driving criminal laws are extensive and address conduct far beyond the specific crime of simple DUI. In addition to crimes and enhancements already discussed, a person who kills someone while driving impaired may be prosecuted for intoxicated vehicular manslaughter. Intoxicated vehicular manslaughter with ordinary negligence is punishable by up to four years, while intoxicated vehicular manslaughter with gross negligence is punishable by imprisonment of up to 10 years. (Pen. Code, § 191.5, subd. (c)(1)-(2).) A person convicted of gross vehicular manslaughter while intoxicated, who has previously been convicted of any DUI, among other offenses, may be punished by 15 years to life. (Pen. Code, § 191.5, subd. (d).)

    A DUI can result in substantial jail time, even when prosecuted as a misdemeanor. A DUI conviction mandates minimum jail time, and existing law additionally establishes jail enhancements for offenses involving excessive speeding, if the DUI involves a minor passenger, or if the person convicted of a DUI, at the time of arrest, willfully failed to submit to or complete a breath or urine test. (Veh. Code, §§ 23536; 23540; 23546; 23550; 23572, subd. (a); 23577, subd. (a); 23582, subd. (a).) A person convicted of a DUI may also have their vehicle impounded for up to 30 days for a first offense and up to 90 days for specified repeat offenders (Veh. Code, § 23594, subds. (a) & (b).) For certain severe impaired driving crimes, the vehicle may be subject to sale. (Veh. Code, § 23596, subds. (a) & (b).)

11) **Increased Penalties and Lack of Deterrent Effect:** According to the National Institute of Justice (NIJ), "Laws and policies designed to deter crime by focusing mainly on increasing the severity of punishment are ineffective partly because criminals know little about the sanctions for specific crimes. "More severe punishments do not 'chasten' individuals convicted of crimes, and prisons may exacerbate recidivism."[25] Rather than penalty increases, the NIJ emphasizes the need for policies that "increase[] the perception that criminals will be caught and punished" because "[t]he *certainty* of being caught is a vastly more powerful deterrent than the punishment." [26]

    In a 2014 report, the Little Hoover Commission similarly addressed the disconnect between science and sentencing – that is, "put[ting] away offenders for increasingly longer periods of time, with no evidence that lengthy incarceration, for many, brings any additional public safety benefit."[27] Accordingly, while this bill guarantees lengthier punishment for repeat impaired drivers and for hit-and-run offenders, it is less clear whether it will effectively prevent impaired driving and hit-and-run behavior.

12) **Argument in Support**: According to the *Los Angeles County District Attorney's Office*, a co-sponsor of this bill, "SB 907 aims to strengthen California's DUI and vehicular manslaughter laws, particularly for repeat offenders. The bill proposes several key fixes to existing laws. First, the "Braun's Law" portion of the bill would ensure that individuals whose DUI charges are dismissed or pled down to a lesser or different charge are advised with a Watson warning of the serious consequences of driving while impaired, which include being charged with second degree murder the next time they drive while intoxicated and kill someone.

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[25] National Institute of Justice, U.S. Department of Justice, *Five Things about Deterrence* (June 5, 2016) <https://nij.ojp.gov/topics/articles/five-things-about-deterrence> [as of June 25, 2026].
[26] *Ibid.*
[27] Little Hoover Commission, *Sensible Sentencing for a Safer California* (Feb. 2014) at p. 4 <https://lhc.ca.gov/wp-content/uploads/Reports/219/Report219.pdf> [as of June 25, 2026].

"SB 907 also includes two important provisions that address repeat offenders. The bill allows for enhancements for prior felony DUI and vehicular manslaughter convictions upon a new felony conviction for those offenses. It also increases sentencing for committing a hit and run causing death or permanent, serious injury if the driver has a prior DUI or vehicular manslaughter conviction within 10 years.

"Under existing laws, repeat offenders understand that they benefit by running away from their crime. If the individual driving under the influence can delay apprehension until after the drug or alcohol is out of their system, it is likely that they will only be charged with a hit and run.

"SB 907 provides a timely and much needed fix to California's existing laws addressing drunk driving and vehicular manslaughter. In so doing, SB 907 aims to close loopholes in the law, save lives and make communities safer."

13) **Argument in Opposition**: According to *Smart Justice California*, "Smart Justice California believes in effective accountability, however current law already provides significant criminal penalties to address the behavior contemplated by SB 907. Under existing law, a person convicted of vehicular manslaughter can already be punished by up to 10 years in state prison for gross vehicular manslaughter while intoxicated, up to four years in county jail for vehicular manslaughter while intoxicated without gross negligence, and up to six years in state prison for vehicular manslaughter. (Penal Code, §§191.5, subd. (c), 193, subd. (c)(1).) A person convicted of gross vehicular manslaughter with a prior vehicular manslaughter conviction or another enumerated driving under the influence conviction can be punished by a term of 15 years to life in state prison. (Penal Code, §191.5, subd. (d).) And if a person is convicted of murder for killing another person while driving intoxicated, their offense is already considered a "violent felony" under existing law. (Penal Code, §667.5, subd. (c)(1).)

"These and other existing penalties already provide a sufficient range of options for prosecutors and courts to hold people accountable for the offenses contemplated by SB 907. To the extent existing penalties already act as a deterrent, expanding penalties will not increase their deterrent value. Research has shown that certainty of punishment has a greater deterrent effect than the severity of the punishment itself…

"Existing data does not correlate increased penalties with reduced impaired driving fatality rates. In states where DUIs can be charged as felonies, there is no significant correlation with reductions in alcohol-impaired-driving fatality. The National Judicial College supports a treatment-based approach for DUIs, stating that "punishment, unaccompanied by treatment and accountability, is an ineffective way to prevent recidivism and habilitate the offenders...The outcome for the offender is continued dependence on alcohol or drugs, and the community, continued peril." For example, states with treatment programs, such as New York's Drug Treatment Alternative-to-Prison program showed a significant and profound reduction in recidivism…

"SB 907 significantly undermines judicial discretion by mandating a "one size fits all" form of justice. The bill removes a judge's discretion to consider the facts of a hit-and-run case and instead compels a felony charge, sidelining judicial expertise in favor of a broad penalty that risks counterproductive outcomes. The American Bar Association explains that

nationally, people who get a repeat DUI conviction (approximately 33%), "will carry on reoffending until the reasons for their continued criminal activity [are] properly addressed...[We] can promote the reduction in recidivism by taking the treatment court principles and evidence-based strategies... in our regular dockets."

14) **Related Legislation**:

a) AB 1546 (Schultz) would increase the punishment for a DUI with two priors from a misdemeanor to a wobbler and the punishment for a DUI with four or more priors from a wobbler to a straight felony. AB 1546 is pending a hearing in Senate Appropriations.

b) 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 expand the definition of a sideshow. AB 1588 is pending a hearing in Senate Public Safety.

c) AB 1605 (Ransom) would have required a person convicted of specified impaired driving offenses, who is granted probation, to be prohibited from purchasing alcohol for a period of at least one year, as a condition of probation. AB 1605 was held in Assembly Appropriations.

d) AB 1662 (Wilson) would require the court, when it grants diversion to a defendant who would have had an abstract of record forwarded to the DMV if they had been convicted, to instead direct the prosecuting attorney to ensure the arresting agency provides notice to DMV of the arrest or incident. AB 1662 is pending a hearing in Senate Appropriations.

e) AB 1685 (Lackey) would increase the number of points that must be added to a person's driving record, from two to three, for gross vehicular manslaughter while intoxicated. AB 1685 is pending a hearing in Senate Transportation.

f) AB 1686 (Lackey) would increase the punishment for a DUI with one prior, and a DUI with two priors, from a misdemeanor to a wobbler. AB 1686 failed passage in this Committee.

g) 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 a ten-year period. AB 1687 is pending a hearing in Senate Transportation.

h) AB 1747 (Sanchez) would have increased the punishment for the crime of intoxicated vehicular manslaughter without gross negligence from a wobbler to a straight felony. AB 1747 failed passage in this Committee.

i) AB 1814 (Alanis) would have required specified officers assigned to traffic enforcement to complete a course of training on detecting and apprehending impaired drivers within one year of their assignment to traffic enforcement, and every two years thereafter. AB 1814 was held in the Assembly Appropriations Committee.

j) AB 1830 (Petrie-Norris) would require, rather than authorize, a court to order an IID for a first-time DUI conviction that does not cause bodily injury, and make permanent certain provisions of the IID pilot program currently in place. AB 1830 is pending a hearing in

Senate Public Safety.

k) AB 1867 (Tangipa) would have required a person convicted of three or more specified impaired driving offenses within ten years who is sentenced to state prison to be prohibited from purchasing alcoholic beverages for life. The hearing on this bill was cancelled at the request of the author.

l) AB 1874 (Wilson) would have provided that if a person is convicted of specified crimes that require the DMV to revoke their driving privileges for three years and the person is imprisoned as a result of the conviction, the DMV shall not reinstate their driving privileges until three years after their release from confinement or imprisonment. AB 1874 was held in Assembly Appropriations.

m) AB 2276 (Soria) would have required the DMV to establish a statewide pilot program that requires a person convicted of specified speeding offenses to install a functioning, certified active intelligent speed assistance (ISA) device on any vehicle that person operates. AB 2276 was held in Assembly Appropriations.

n) AB 2328 (Alanis) would have increased the punishment for a hit and run that results in death from a wobbler with a maximum punishment of two, three, or four years in state prison, to a wobbler with a maximum punishment of three, four, or five years in state prison. AB 2328 was held in the Assembly Appropriations Committee.

o) AB 2502 (Pellerin) would specify that for purposes of impaired driving crimes, "drive" includes the volitional movement of a vehicle with specified levels of driving automation, as defined. AB 2502 is pending a hearing in Senate Public Safety.

p) SB 953 (Niello) would require two points to be assessed to the driving record of a person for specified vehicular manslaughter crimes, even when the case was dismissed because the defendant completed court-initiated misdemeanor diversion. SB 953 is pending a hearing in Senate Transportation.

q) SB 1198 (Menjivar) would lengthen the license suspensions that apply to reckless driving, among other changes. SB 1198 is pending a hearing in Assembly Appropriations.

15) **Prior Legislation**:

a) AB 1281 (DeMaio), of the 2025-2026 Legislative Session, would have increased the punishment for a hit and run resulting in death or serious injury from a wobbler to a felony punishable by seven, eight, or nine years in state prison. AB 1281 failed passage in this committee.

b) AB 1067 (Patterson), of the 2023-2024 Legislative Session, would have increased the penalties for fleeing the scene of an accident resulting in the death of another person from a wobbler with a maximum punishment of four years in state prison, to a wobbler with a maximum punishment of six years in state prison. AB 1067 was held in the Assembly Appropriations Committee.

c) AB 582 (Patterson), of the 2021-2022 Legislative Session, was substantially similar to AB 1067 (Patterson) of the 2023-2024 Legislative Session. AB 582 was held in the Assembly Appropriations Committee.

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

e) AB 2014 (E. Garcia), of the 2017-2018 Legislative Session, would have increased the penalty for fleeing the scene of an accident resulting in death or serious bodily injury from two, three, or four years in state prison to two, four, or six years in state prison. The hearing on AB 2014 in this committee was canceled at the request of the author.

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

REGISTERED SUPPORT / OPPOSITION:

Support

Safety and Advocacy for Empowerment (SAFE) (Co-Sponsor)
American Medical Response West
Arcadia Police Officers' Association
Association for Los Angeles 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 Consortium of Addiction Programs and Professionals
California Contract Cities Association
California District Attorneys Association
California Narcotic Officers' Association
California Peace Officers Association
California Police Chiefs Association
California Reserve Peace Officers Association
California State Sheriffs' Association
City of Los Angeles, Council District 11
City of Norwalk
City of Pico Rivera
Claremont Police Officers Association
Corona Police Officers Association
County of Fresno
County of Orange
Culver City Police Officers' Association
Fullerton Police Officers' Association
League of California Cities

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
Mothers Against Drunk Driving
Murrieta Police Officers' Association
Newport Beach Police Association
Norwalk; City of
Orange County District Attorney
Palos Verdes Police Officers Association
Peace Officers Research Association of California (PORAC)
Placer County Deputy Sheriffs' Association
Pomona Police Officers' Association
Riverside County District Attorney
Riverside Police Officers Association
Riverside Sheriffs' Association
San Francisco Bay Area Families for Safe Streets
Streets are for Everyone
Streets for All
Walk San Francisco Foundation

Opposition

A New Path
ACLU California Action
All of US or None (HQ)
California Attorneys for Criminal Justice
California Public Defenders Association
Californians United for a Responsible Budget
Courage California
Ella Baker Center for Human Rights
Felony Murder Elimination Project
Friends Committee on Legislation of California
Initiate Justice
Justice2jobs Coalition
LA Defensa
Legal Services for Prisoners With Children
Local 148 Los Angeles County Public Defender's Union
Rubicon Programs
San Francisco Public Defender
Smart Justice California, a Project of Beyond Impact
Vera Institute of Justice

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

Date of Hearing: June 30, 2026
Chief Counsel: Andrew Ironside

ASSEMBLY COMMITTEE ON PUBLIC SAFETY
Nick Schultz, Chair

SB 936 (Blakespear) – As Amended May 18, 2026

As Proposed to be Amended in Committee

SUMMARY: Creates four new infractions related to the sale, offers to sell, or distribution of nitrous oxide. Specifically, **this bill**:

1) Makes it unlawful for any person to sell, offer to sell, or distribute a nitrous oxide container that is capable of holding more than eight grams of nitrous oxide, except as provided.

2) Makes it unlawful for any person to sell, offer to sell, or distribute a nitrous oxide container which an individual may directly inhale nitrous oxide, except as provided.

3) Makes it unlawful to sell, offer to sell, or distribute nitrous oxide that has, or is marketed as having, the taste or smell of any food, including, but not limited to, any fruit, candy, dessert, alcoholic beverage, herb, or spice, that is distinguishable by an ordinary consumer either prior to or during consumption or use of the product.

4) Makes it unlawful to sell, offer to sell, or distribute a device that allows an individual to inhale nitrous oxide from the nitrous oxide container or to hold nitrous oxide released from the nitrous oxide container for purposes of inhalation.

5) Provides that a violation of the above provisions is punishable as an infraction. Specifies that the penalties are a fine of not more than $500 for the first offense, $1,000 for a second offense, or $2,000 for a third and subsequent offense.

6) Authorizes a court to issue either of the following orders:

   a) The suspension of any business license, for a period of up to one year, of a business that knowingly violates any of the above provisions following a prior conviction.

   b) The suspension of a license issued pursuant to the Cigarette and Tobacco Products Licensing Act of 2003 or the Medicinal and Adult-Use Cannabis Regulation and Safety Act, or any business license, for a period of up to one year, of a business that knowingly violates any of the above provisions following a prior conviction.

7) Requires the court to provide a copy of any suspension order to the appropriate regulating agency.

8) Specifies that its provisions do not apply to nitrous oxide or a nitrous oxide container that meets any of the following:

a) Has been denatured or otherwise rendered unfit for human consumption for use.

b) Is intended and marketed for use by a manufacturer as part of a manufacturing process or industrial operation.

c) Is specifically designed and marketed for use in a vehicle to enhance the performance of the vehicle.

d) Is sold to a licensed medical or dental practitioner to be administered or prescribed as part of the care or treatment of a disease, condition, or injury.

e) Contains less than nine grams of nitrous oxide as a propellant in food or to be used in food preparation for restaurant, food service, or houseware products.

f) Is sold by a wholesaler for any of the above listed purposes.

9) Defines "nitrous oxide container" as "a device, canister, tank, or receptacle either exclusively containing nitrous oxide or exclusively containing a chemical compound mixed with nitrous oxide."

10) Provides that "nitrous oxide" has the same meaning as it does in existing law.

EXISTING LAW:

1) Defines "nitrous oxide" to mean any of the following substances: N2O, dinitrogen monoxide, dinitrogen oxide, nitrogen oxide, or laughing gas. (Pen. Code, § 381c, subd. (a).)

2) Provides that any person that possesses nitrous oxide or any substance containing nitrous oxide with the intent to breathe, inhale, ingest for the purposes of causing a condition of intoxication, elation, euphoria, dizziness, stupefaction, or dulling of the senses, or for the purposes of, in any manner, changing, distorting, or disturbing the audio, visual, or mental processes, or who knowingly with the intent to do so, is under the influence of nitrous oxide is a guilty of a misdemeanor punishable by imprisonment in a county jail by a term not to exceed six months, by a fine not to exceed $1,000, or by both imprisonment and a fine. (Pen. Code, § 381b.)

3) States that every person who sells, furnishes, administers, distributes, or gives away, or offers to sell, furnish, distribute, or give away a device, canister, tank, or receptacle either exclusively containing nitrous oxide, or exclusively containing a chemical compound containing nitrous oxide to a person under 18 years of age is guilty of a misdemeanor punishable by imprisonment in a county jail by a term not to exceed six months, by a fine not to exceed $1,000, or by both imprisonment and a fine. The court shall consider ordering community service as a condition of probation. (Pen. Code, § 381c, subd. (b).)

4) Provides that it is a defense to the crime of selling nitrous to a minor if the defendant honestly and reasonably believed that the minor involved in the offense was at least 18 years of age. The defendant bears the burden of establishing this defense by a preponderance of the evidence. (Pen. Code, § 381c, subd. (c)(1) & (2).)

5) Makes it a misdemeanor punishable by a term of imprisonment not to exceed six months, by a fine not to exceed $1,000, or both, for any person to dispense or distribute nitrous oxide to a person knowing or having reason to believe that the nitrous oxide will be ingested or inhaled by the person for the purposes of causing intoxication, euphoria, dizziness, or stupefaction and that person proximately cause great bodily injury or death to himself, herself, or any other person. (Pen. Code, § 381d.)

6) Requires a person that distributes or dispenses nitrous to record each transaction involving nitrous oxide in a physical written document. The person dispensing or distribution the nitrous oxide shall require the purchaser to sign the document and provide a residential address and present a valid government issued photo identification card. The person dispensing or distributing the nitrous oxide shall sign and date the document and retain the document at the business address for one year from the date of the transaction, and shall make transaction records available during normal business hours for inspection and copying by officers and employees of the California State Board of Pharmacy, or of other law enforcement agencies of this state or of the United States upon presentation of a duly authorized search warrant. (Pen. Code, § 381e, subd. (a).)

7) Requires that the document used to record each nitrous oxide transaction shall inform the purchaser of all of the following:

   a) The inhalation of nitrous oxide may be hazardous to your health;

   b) That it is a violation of state law to possess nitrous oxide or any substance containing nitrous oxide with the intent to breathe, inhale, or ingest it for the purpose of intoxication;

   c) That it is a violation of state law to knowingly distribute or dispense nitrous oxide or any substance containing nitrous oxide, to a person who intends to breathe, ingest, or inhale it for the purpose of intoxication.

   d) States that these requirements shall not apply to any person that administers nitrous oxide for the purpose of providing medical or dental care if administered by a medical or dental provider licensed by this state or at the direction or under the supervision of a practitioner licensed in this state; and,

   e) Provides that these requirements shall not apply to the sale of nitrous oxide contained in food products for use as a propellant. (Pen. Code, § 381e, subd. (b).)

8) Requires, commencing June 30, 2004, a retailer have in place and maintain a license to engage in the sale of cigarettes or tobacco products. A retailer that owns or controls more than one retail location shall obtain a separate license for each retail location, but may submit a single application for those licenses. (Bus. & Prof. § 22972, subd. (a).)

FISCAL EFFECT: Unknown.

COMMENTS:

1) **Sponsors**: Rural County Representatives of California, National Stewardship Action Council, County of Orange, and San Diego County District Attorney.

2) **Author's Statement**: According to the author, "SB 936 would prohibit the public sale of nitrous oxide canisters larger than 8 grams, while preserving access for legitimate medical, dental, culinary, and automotive uses. These canisters are increasingly used recreationally by youth and pose serious public safety risks, including impaired driving. SB 936 targets misuse by limiting retail sales to intended purposes, particularly addressing flavored, youth-oriented products marketed for inhalation. SB 936 also does not create new possession crimes or further criminalize Californians who consume nitrous, it simply reduces access for non-legitimate uses. The bill builds on actions already taken in Nebraska, Louisiana, and several California counties, including Humboldt, Orange, San Mateo, and Santa Cruz, to curb the retail sale of nitrous oxide."

3) **Nitrous Oxide:** Nitrous oxide is a colorless, odorless to sweet-smelling gas used to manage pain and anxiety in dentistry as well as other clinical settings.[1] In addition, it is used in food preparation and as an oxidizer in model rockets and motor vehicle racing.

   Nitrous oxide is also misused as a recreational drug and produces short-lived euphoric and hallucinogenic effects. It is consumed in the form of whippets—balloons filled with the gas via small, pressurized canisters designed to be used in whipped cream dispensers. Nitrous oxide has become increasingly popular, particularly among teens and young adults, due to its low cost and availability online and in grocery and convenience stores, gas stations, and shops that sell vapes and other tobacco-related products.[2] Short-term side effects include slurred speech, dizziness, and headaches.[3] Although nitrous oxide use is often perceived by those using it as safe or harmless, repeated use can cause severe neurologic, cardiovascular, and psychiatric effects, including hallucinations, delusions, organ damage, nerve damage, seizures, coma, and death.[4]

   In addition to the harmful physical effects that nitrous oxide misuse can have on users, the discarded canisters containing nitrous oxide have presented challenges for waste management and recycling companies.

4) **Prohibition on Sale of Nitrous Oxide:** Existing law prohibits possessing nitrous oxide with the intent inhaling the gas for the purpose of causing a condition of intoxication, or who knowingly and with the intent to use nitrous oxide illegally and is under the influence of nitrous oxide or any material containing nitrous oxide is guilty of a misdemeanor. (Pen. Code, § 381b.) Penal Code section 381c prohibits any person from selling or furnishing any device, canister, tank, or receptacle either exclusively containing nitrous oxide or exclusively containing a chemical compound mixed with nitrous oxide, to a person under 18 years of age, any person who does so is guilty of a misdemeanor. (Pen. Code, § 381c, subd. (a).) This

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[1] American Dental Association, Nitrous Oxide <https://www.ada.org/resources/ada-library/oral-health-topics/nitrous-oxide> [as of June 19, 2026].
[2] Centers for Disease and Control, Notes from the Field: Recreational Nitrous Oxide Misuse—Michigan, 2019-2023 (Apr. 10, 2025) <https://www.cdc.gov/mmwr/volumes/74/wr/mm7412a3.htm> [as of June 19, 2026].
[3] (American Addiction Centers, Nitrous Oxide (Whippet) Abuse, Side Effects, & Treatment (Dec. 31. 2024) <https://americanaddictioncenters.org/inhalant-abuse/nitrous-oxide-whippets> [as of June 19, 2026].
[4] *Ibid.*

section is expressly aimed at businesses that sell nitrous to young people knowing they would use it for an illegal purpose. Penal Code section 381d criminalizes sale of nitrous to a person that suffers death or bodily injury. Both 381c and 381d are misdemeanors punishable by up to six months in the county jail, by fine, or both.

When a person sells or furnishes nitrous oxide where the seller knows or reasonably should know, a person under the age of 18 would use it for an illegal purpose, the court is required to order the suspension of the business license, for a period of up to one year, if the person who knowingly sold or furnished nitrous to a person under the age of 18 after having been previously convicted of this offense, unless the owner of the business license can demonstrate a good faith attempt to prevent illegal sales or deliveries by the owner's employees. (Pen. Code, 381c, subd. (e).)

5) **Effect of the bill:** This bill creates four new infractions related to the sale or distribution of nitrous oxide. A first violation carries a fine of not more than $500, a second violation carries a fine of not more than $1000, and a third or subsequent offense carries a fine of not more than $2,000. A court would also be authorized to suspend business licenses for any business that knowingly violates the infractions that this bill creates. Specifically, this bill makes it unlawful to sell, offer to sell, or distribute a nitrous oxide container that is capable of holding more than eight grams of nitrous oxide; a nitrous oxide container which an individual may directly inhale nitrous oxide; nitrous oxide that has, or is marketed as having, the taste or smell of any food, including, but not limited to, any fruit, candy, dessert, alcoholic beverage, herb, or spice, that is distinguishable by an ordinary consumer either prior to or during consumption or use of the product; or, a device that allows an individual to inhale nitrous oxide from the nitrous oxide container or to hold nitrous oxide released from the nitrous oxide container for purposes of inhalation.

   This bill explicitly exempts nitrous oxide or a nitrous oxide container that has been denatured or otherwise rendered unfit for human consumption for use; is intended and marketed for use by a manufacturer as part of a manufacturing process or industrial operation; is specifically designed and marketed for use in a vehicle to enhance the performance of the vehicle; is sold to a licensed medical or dental practitioner to be administered or prescribed as part of the care or treatment of a disease, condition, or injury; contains less than nine grams of nitrous oxide as a propellant in food or to be used in food preparation for restaurant, food service, or houseware products; or is sold by a wholesaler for any of the above listed purposes.

6) **Argument in Support**: According to *Rural County Representatives of California*, "Senate Bill 936 bans the sale of nitrous oxide, which is widely used as an illicit recreational inhalant. The illicit use of nitrous oxide as a party drug causes serious and sobering public health and safety consequences. Proper management and disposal of large nitrous oxide cylinders is a growing and expensive waste management problem for local governments. Importantly, SB 936 preserves access to nitrous oxide for legitimate purposes by exempting sales for food preparation, manufacturing, automotive, medical, veterinary, and dentistry purposes.

   "When used as a recreational inhalant, nitrous oxide has been linked to serious health problems, including dizziness, nausea and vomiting, memory loss, low blood pressure, impaired functioning and judgement, irregular heartbeats, severe asphyxia, and neurological damage. Nitrous oxide misuse was responsible for a fatal collision in Orange County that killed three and seriously injured four children. Another nitrous oxide-related crash in

Northern California killed the impaired driver, two occupants of another vehicle, and left a young mother who was a passenger in the car unable to walk or talk.

"California has long prohibited the use or sale of nitrous oxide for recreational purposes, but those laws have had little impact on a rapidly increasing problem. The Food and Drug Administration warned the public about the risks of recreational nitrous oxide use in June of 2025 and several cities and counties in California have since banned the sale of nitrous oxide.

"Unfortunately, existing law provides neither the tools nor the consequences to adequately address the problem. SB 936 builds upon the models adopted by local governments in Orange County, Humboldt County, Nebraska, and Louisiana and imposes serious consequences for those who illegally sell nitrous oxide.

"Local agencies are responsible for the collection, processing, recycling and disposal of solid waste, including the operation of local household hazardous waste (HHW) collection programs. Waste nitrous oxide cylinders must be managed by local governments as HHW, where the cost for disposal (roughly $70-$120/container) far exceeds the initial consumer purchase price ($40-$70/container). These costs are not sustainable.

"Local governments have no control over what products are introduced into the marketplace and for which we will ultimately be responsible for management and disposal. By banning the sale of large nitrous oxide containers, SB 936 will significantly reduce cost pressures and management challenges for local solid waste programs and their operators.

"In short, SB 936 will better protect children and young adults from the dangers of illicit nitrous oxide use while reducing local government solid waste management costs and challenges."

7) **Argument in Opposition**: According to *Californians United for a Responsible Budget*, "It is unnecessary and counterproductive to regulate Nitrous Oxide products through the criminal legal system. Instead, any concerns about their availability on the market should be addressed through regulations grounded in public health, consumer protection, and evidence-based oversight.

"In addition to fundamental opposition to criminalizing substances, SB 936 raises concerns as it is overly broad. Proposed Penal Code Section 381f(d) would make it a crime to "sell, offer, distribute or otherwise provide a device that allows an individual … to hold nitrous oxide released from a nitrous oxide container for purposes of inhalation." This broad language risks treating household items that may "hold" nitrous oxide gas, such as Ziploc bags, as illegal drug paraphernalia. The Legislature should not create such broad criminal liability.

"Instead of creating new drug crimes, we strongly urge your Office to amend the bill out of the Penal Code and to directly regulate businesses. For example, California's approach to regulating flavored tobacco products imposes civil fines and retail license consequences for businesses that fail to comply with the regulatory framework. The proper avenue for the intent of SB 936 is direct regulation of retailers, not criminalization of individuals. 1

"In so far as SB 936 is aimed at addressing drug addiction, we urge the Office to explore

effective public health solutions rather than expanding criminalization. The criminal punishment structure for controlling drugs and preventing harm has failed – opioids, stimulants and other substances are more widely available and cheaper than ever before. Despite the War on Drugs, the death rates have climbed decade after decade. It is well past time for a rational, public health approach to take the lead on preventing drug-related harms."

8) **Related Legislation**: SB 758 (Umberg) would prohibit a retailer from selling nitrous oxide at a retail location. SB 758 will be heard today in this committee.

9) **Prior Legislation**:

a) AB 1107 (Flora), of the 2023-2024 Legislative Session, would have mandated a court to suspend a business license for up to one year of any business or person that knowingly fails to record any nitrous oxide sale, as specified. AB 1107 was held in suspense in the Assembly Appropriations Committee.

b) SB 193 (Nielsen), of the 2019-2020 Legislative Session, would have created a new misdemeanor for any retailer of tobacco or tobacco-related products from selling or offering to sell nitrous oxide; and would have required a court to suspend the business license, for a period of up to one year, for any business owner or employee who knowingly violates the prohibition against selling nitrous oxide after having been previously convicted of a violation, unless the owner of the business license can demonstrate a good-faith attempt to prevent violations by the owner or the owner's employees. SB 193 was held in suspense in the Assembly Appropriations Committee.

c) SB 631 (Nielsen), of the 2017-2018 Legislative Session, would have prohibited any retailer of tobacco or tobacco-related products, as defined, from selling, offering, or exposing for sale nitrous oxide. The hearing on SB 631 in the Assembly Judiciary Committee was canceled at the request of the author.

d) AB 1735 (Hall), Chapter 458, Statutes of 2014, makes it a misdemeanor for any person to dispense or distribute nitrous oxide to a person, if it is known or should have been known that the nitrous will be ingested or inhaled by the person for the purposes of causing intoxication, and that person proximately cause great bodily injury or death to himself/herself, or any other person.

e) AB 1015 (Torklason), Chapter 266, Statutes of 2009, makes it a misdemeanor for a person to sell or furnish to a person under the age of 18 years a canister or device containing nitrous oxide or a chemical compound mixed with nitrous oxide.

REGISTERED SUPPORT / OPPOSITION:

Support

National Stewardship Action Council (Sponsor)
Rural County Representatives of California (RCRC) (Sponsor)
San Diego County District Attorney's Office (Co-Sponsor)

American Nurses Association - California
American Nurses Association/California
Arcadia Police Officers' Association
Brea Police Association
Burbank Police Officers' Association
California Association of Alcohol and Drug Program Executives
California Association of School Police Chiefs
California Behavioral Health Planning Council
California Cannabis Operators Association (CACOA)
California Cupa Forum
California District Attorneys Association
California Medical Association (CMA)
California Narcotic Officers' Association
California Nurses for Environmental Health & Justice
California Product Stewardship Council
California Reserve Peace Officers Association
Californians Against Waste
City of Carlsbad
City of Escondido
City of Laguna Niguel
City of Los Alamitos
City of San Jose
City of San Juan Capistrano
City of Vacaville
City of Ventura
Claremont Police Officers Association
Cleanearth4kids.org
Corona Police Officers Association
Costa Mesa; City of
County of Humboldt
County of Mendocino
County of Santa Barbara
County of Santa Clara
Culver City Police Officers' Association
Del Norte Solid Waste Management Authority
Dental Board of California
Douglas County Environmental Services
Elders Climate Action (ECA) Northern CA Chapter
Elders Climate Action (ECA) Southern CA Chapter
Elders Climate Action Northern California Chapter
Elders Climate Action Southern California Chapter
Facts Families Advocating for Chemical and Toxics Safety
Fullerton Police Officers' Association
Good Farmers Great Neighbors
Health Officers Association of California
League of California Cities
Long Beach; City of
Los Angeles County District Attorney's Office
Los Angeles County Sanitation Districts

Los Angeles School Police Management Association
Los Angeles School Police Officers Association
Merced County Regional Waste Management Authority
Mojave Desert and Mountain Recycling Authority
Murrieta Police Officers' Association
Nevada County Climate Action Now
Newport Beach Police Association
Nug, INC.
Orange; County of
Palos Verdes Police Officers Association
Placer County Deputy Sheriffs' Association
Pomona Police Officers' Association
Recology
Regen Monterey
Republic Services
Resource Recovery Coalition of California
Rethink Waste
Riverside County Sheriff's Office
Riverside Police Officers Association
Riverside Sheriffs' Association
Russian Hill Neighbors, San Francisco
Sacramento County District Attorney
San Diego County Sheriff's Office
San Francisco Marin Medical Society
San Luis Obispo County Integrated Waste Management Authority
Santa Clara County Recycling and Waste Reduction Commission
South San Francisco Scavenger Company
Stopwaste
Sunnyvale; City of
Swana California Chapters Legislative Task Force
Tehama County Solid Waste Management Agency
The Last Plastic Straw
Town of Apple Valley
Urban Counties of California (UCC)
Ventura; City of
Western Placer Waste Management Authority (WPWMA)
Wilton Rancheria
Zero Waste Marin
Zero Waste Marin Joint Powers Authority
Zero Waste Sonoma

Opposition

ACLU California Action
California Coalition for Women Prisoners
Californians United for a Responsible Budget
San Francisco Public Defender

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

Amended Mock-up for 2025-2026 SB-936 (Blakespear (S) , Umberg (S))

Mock-up based on Version Number 96 - Amended Senate 5/18/26
Submitted by: Staff Name, Office Name

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

SECTION 1. Chapter 10 (commencing with Section 119408) is added to Part 15 of Division 104 of the Health and Safety Code, to read:

CHAPTER 10. Nitrous Oxide

119408. (a) Except as provided in this section, it is unlawful for any person to sell, **offer to sell, or distribute**~~, furnish, offer, distribute, or give away~~ a nitrous oxide container that is capable of holding more than eight grams of nitrous oxide.

(b) Except as provided in this section, it is unlawful for any person to sell, **offer to sell, or distribute**~~, furnish, offer, distribute, or give away~~ a nitrous oxide container from which an individual may directly inhale nitrous oxide.

(c) It is unlawful to sell, **offer to sell,** or distribute nitrous oxide that has, or is marketed as having, the taste or smell of any food, including, but not limited to, any fruit, candy, dessert, alcoholic beverage, herb, or spice, that is distinguishable by an ordinary consumer either prior to or during consumption or use of the product.

(d) It is unlawful to sell, offer **to sell**, **or** distribute~~, or otherwise provide~~ a device that a person knows, or reasonably should know, allows an individual to inhale nitrous oxide from the nitrous oxide container or to hold nitrous oxide released from the nitrous oxide container for purposes of inhalation.

(e) A violation of this section is punishable as an infraction punishable by a fine of not more than five hundred dollars ($500) for the first offense, one thousand dollars ($1,000) for a second offense, or two thousand dollars ($2,000) for a third and subsequent offense.

(f) (1) In addition to the penalties described in subdivision (e), a court may issue either or both of the following orders:

(A) The suspension of a business license issued by the state, a city, a county, or a city and county, for a period of up to one year, of a business that knowingly violates this section following a prior conviction for a violation of this section.

(B) The suspension of a license issued pursuant to the Cigarette and Tobacco Products Licensing Act of 2003 (Division 8.6 (commencing with Section 22970) of the Business and Professions Code) or a seller's permit issued by the California Department of Tax and Fee Administration pursuant to Section 6067 of the Revenue and Taxation Code, for a period of up to one year, of a business that knowingly violates this section following a prior conviction for a violation of this section.

(2) The court shall provide a copy of any suspension order to the appropriate regulating agency.

(g) This section does not apply to nitrous oxide or a nitrous oxide container that meets any of the following:

(1) Has been denatured or otherwise rendered unfit for human consumption or use.

(2) Is intended and marketed for use by a manufacturer as part of a manufacturing process or industrial operation.

(3) Is specifically designed and marketed for use in a vehicle to enhance the performance of the vehicle.

(4) Is sold to a licensed medical, veterinary, or dental practitioner to be administered or prescribed as part of the care or treatment of a disease, condition, or injury.

(5) Contains less than nine grams of nitrous oxide as a propellant in food or to be used in food preparation for restaurant, food service, or houseware products.

(6) Is sold by a wholesaler for any purpose listed in this subdivision.

(h) For the purposes of this section, the following terms have the following meanings:

(1) "Distributor" means a person who sells a product to a retailer in violation of this section, or accepts an order for a product from a retailer in violation of this section.

(2) "Nitrous oxide container" means a device, canister, tank, or receptacle either exclusively containing nitrous oxide or exclusively containing a chemical compound mixed with nitrous oxide.

(3) "Nitrous oxide" has the same meaning as in Section 381c of the Penal Code.

(i) For purposes of this section, a reference to a sale, offer to sell, distribution, advertisement, or provision of a product or service includes conduct that occurs in person, through the internet, or through any other electronic or digital means.

(j) This section does not limit the authority of a city, county, or city and county to adopt or enforce a local ordinance that further restricts the sale, furnishing, offering, or distribution of nitrous oxide.

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

Date of Hearing: June 30, 2026
Counsel: Dustin Weber

ASSEMBLY COMMITTEE ON PUBLIC SAFETY
Nick Schultz, Chair

SB 948 (Arreguín) – As Amended May 14, 2026

As Proposed to be Amended in Committee

SUMMARY: Requires applicants for firearm safety certificates (FSCs) to complete a four-hour training course and personal firearms importers to send a report to the California Department of Justice (DOJ) that includes a valid FSC. Specifically, **this bill**:

1) Requires a personal firearm importer, i.e., person moving into the State of California, to do the following within 180 days:

   a) Submit to DOJ a report with details about the person, residence, and firearm(s).

   b) Obtain a valid firearm safety certificate (FSC) and include a copy of the valid FSC within the report to DOJ.

2) Punishes with an infraction, the failure to include an FSC within the report submitted to DOJ.

3) Punishes with an infraction a person bringing any firearm, except an antique firearm, into California without obtaining a valid FSC within 180 days of bringing that firearm into this state if the person is required to report the importation of the firearm to DOJ.

4) Requires every applicant for an FSC to complete a 4-hour training course that shall include the following:

   a) Federal and state laws related to possession, transportation, and storage of firearms, including the transfer of a firearm.

   b) The importance of secure storage to prevent unauthorized access and use of firearms.

   c) Safe firearm handling and fundamentals of shooting firearms.

   d) How to legally and voluntarily surrender or transfer a firearm.

   e) State laws pertaining to self-defense, use-of-force guidelines, and techniques for conflict resolution.

   f) The training shall be taught and supervised by firearms instructors certified by the DOJ, as defined.

g) The live-fire shooting exercises shall take place on a firing range and shall include a demonstration by the applicant of safe handling of firearms and basic firearm shooting proficiency.

5) States that the training course requirement shall not apply to individuals with valid concealed carry weapons permits.

6) Provides that the DOJ may promulgate regulations and provide additional information for the implementation of this section.

7) Authorizes the Dealers' Record of Sale Special Account to be used, upon appropriation by the Legislature, for any costs associated with this law's implementation and ongoing expenses.

EXISTING LAW:

1) Provides that the right of the people to keep and bear arms shall not be infringed. (U.S. Const., 2nd Amend.)

2) Requires a personal firearms importer to submit to the DOJ a report including information concerning that individual and a description of the firearm in question. (Pen. Code, § 27560, subd. (a)(1)(A).)

3) Authorizes DOJ to request photographs of the firearm to determine if the firearm is a generally prohibited weapon, assault weapon, or machinegun, or is otherwise prohibited. (Pen. Code, § 27560, subd. (a)(1)(A).)

4) Prohibits a person from furnishing a fictitious name or address, knowingly furnish any incorrect information, or knowingly omit any information required to be provided in this report. (Pen. Code, § 27560, subd. (a)(1)(A).)

5) Requires DOJ to establish a fee for submission of the personal firearms importer form and an additional fee for each additional firearm, but prohibits the fee from exceeding the reasonable and actual costs of processing the form. (Pen. Code, § 27560, subd. (a)(2).)

6) States that it is a misdemeanor if a person purchases or receives any firearm, except an antique firearm, without a valid FSC, except that in the case of a handgun, an unexpired handgun safety certificate may be used. (Pen. Code, § 31615, subds. (a)(1) & (b).)

7) States that it is misdemeanor if a person sells, delivers, loans, or transfers any firearm, except an antique firearm, to any person who does not have a valid firearm safety certificate, except that in the case of a handgun, an unexpired handgun safety certificate may be used. (Pen. Code, § 31615, subds. (a)(2) & (b).)

FISCAL EFFECT: Unknown

COMMENTS:

1) **Sponsor**: Brady United Against Gun Violence

2) **Author's Statement**: According to the author, "Although California has enacted some of the strongest gun safety laws in the nation, currently state law does not require those that import guns into California to secure a Firearm Safety Certificate. Additionally, new gun purchasers are not required to complete education courses or training in safe firearm handling, including live-fire instruction. SB 948 address this gap by requiring comprehensive and meaningful training for anyone seeking to obtain a Firearm Safety Certificate. By strengthening the education and training component tied to the certificate, this measure ensures that individuals who choose to own firearms have demonstrated both a clear understanding of applicable laws and the practical skills necessary to handle a firearm safely."

3) **Effect of the Bill:** SB 948, as proposed to be amended in committee, would make it an infraction for 1) a person who fails to send a report with a valid FSC to DOJ upon moving into California and for 2) a person who brings any firearm, except an antique firearm, into this state without obtaining a valid firearm safety certificate within 180 days of bringing that firearm into this state. The bill also includes a safe harbor provision, as proposed to be amended, that does not authorize penalty if the evidence of that penalty only arises out of compliance with the law. It is unclear whether 180 days is sufficient, constitutionally or practically, for a new resident to manage the move, possibly start a new job, and to secure an FSC, inclusive of this bill's new requirements.

4) **Firearm Safety Certificates (FSC) vs. Concealed Carry Weapons (CCW) Permits:** This bill would require new residents to report bringing their firearms with them to California DOJ with a copy of their FSC. This bill would also significantly expand the training requirements needed to acquire an FSC.

   FSC's are required for many actions a person undertakes as part of firearm ownership in California. This includes, among other acts, purchase, transport, and loans.[1] The current requirement to obtain an FSC in California involves scoring 75% or greater on a 25-question multiple choice exam issued by a DOJ-certified instructor.[2] This bill would expand that requirement to four hours of in person instruction, with numerous defined areas of instruction, and one hour of live fire shooting. The defined areas of instruction under this bill are: federal and state laws related to possession, transportation, and storage of firearms; the importance of secure storage to prevent unauthorized access and use of firearms; safe firearm handling and fundamentals of shooting firearms; risks of firearms and causes of accidents; how to legally relinquish or transfer a firearm; state laws pertaining to self-defense and techniques for conflict resolution; and mental health, suicide prevention, and domestic violence issues associated with firearms and firearm violence.

   An FSC is valid for five years from the date of issuance.[3] The stated intent of the California Legislature in enacting the current FSC law is for persons who obtain firearms to have a *basic* familiarity with those firearms, including, but not limited to, the safe handling and

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[1] *Firearm Safety Certificate Program Frequently Asked Questions*, California Department of Justice < https://oag.ca.gov/firearms/fscfaqs> [as of June 24, 2026].
[2] Firearms Safety Certificate Study Guide, California Department of Justice (June 2020) <https://oag.ca.gov/sites/all/files/agweb/pdfs/firearms/forms/hscsg.pdf > [as of June 24, 2026].
[3] *Ibid.*

storage of those firearms.[4] A firearms dealer cannot deliver a firearm unless the person receiving the firearm presents a valid FSC.[5] Prior to taking delivery of a firearm from a licensed firearms dealer, the purchaser/recipient must also successfully perform a safe handling demonstration with that firearm.[6] Even though these training requirements should help firearms owners better understand the law, whether a four-hour course, which is designed in statute to include things like an understanding of firearms case law, self-defense laws, and use-of-force guidelines, advances the intent of California's FSC requirement that firearms owners have a basic familiarity with firearms.

Compare this bill's requirements to our state's requirements to acquire a concealed carry weapons permit, which generally allows licensees to publicly carry a loaded firearm in non-prohibited places. To get a CCW license, which is valid for two years, new license applicants must complete a training course that meets all of the following minimum criteria: the course shall be no less than 16 hours in length, the course shall include instruction on firearm safety, firearm handling, shooting technique, safe storage, legal methods to transport firearms and securing firearms in vehicles, laws governing where permit holders may carry firearms, laws regarding the permissible use of a firearm, and laws regarding the permissible use of lethal force in self-defense. (Pen. Code, § 26165.) The course shall also include a component, no less than one hour in length, on mental health and mental health resources, shall be taught and supervised by firearms instructors certified by the DOJ, shall require students to pass a written examination to demonstrate their understanding of the covered topics; and the course shall include live-fire shooting exercises on a firing range and shall include a demonstration by the applicant of safe handling of, and shooting proficiency with, each firearm that the applicant is applying to be licensed to carry. (Pen. Code, § 26165, subd. (a)(1)-(6).) CCW *renewal* applicants, however, must complete only an eight-hour course, inclusive of most of the new licensee criteria. (Pen. Code, § 26165, subd. (e).)

The training required to acquire an FSC under this bill would include comparable training requirements as those for a CCW renewal. Licensing regimes are broadly constitutional, but the Court has warned against regimes that are too onerous or not designed to accomplish valid objectives. Imagine a law that establishes a requirement that any social media user be required to go through hours of training to learn about various laws relating to the First Amendment, social media, and mental health before being permitted to use a social media platform. It is difficult to imagine such a law surviving constitutional scrutiny. While speech and firearms exist in significantly different contexts and can create concerns unique to those contexts, there are very real physical and mental safety risks associated with use of both social media platforms and firearms.[7] The more onerous California law makes exercise of Second Amendment rights, the greater the likelihood that our laws will run afoul of the Court's admonitions that the Second Amendment is not a second-class right and that

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[4] *Firearm Safety Certificate Manual for Firearms Dealers and DOJ Certified Instructors,* California Department of Justice (June 2020) < https://oag.ca.gov/sites/all/files/agweb/pdfs/firearms/forms/hscman.pdf > [as of June 24, 2026].
[5] *Ibid.*
[6] *Ibid.*
[7] Chatterjee, Screen addiction and suicidal behaviors are linked for teens, a study shows (June 18, 2025) National Public Radio <https://www.npr.org/sections/shots-health-news/2025/06/18/nx-s1-5436951/jama-screens-teens-addiction-suicide-abcd> [as of June 26, 2026].

licensing regimes put towards abusive ends could be constitutionally dubious. (*New York State Rifle & Pistol Association, Inc. v. Bruen* (2022) 597 U.S. 1.)

5) **Practical Concerns**: SB 948 raises certain practical concerns that may need to be addressed. California law currently requires an FSC to receive a firearm. (Pen. Code, § 31615, subd. (a).) Violators are subject to a misdemeanor penalty. (*Id.,* at subd. (b).) SB 948 would require a live-fire demonstration in its requirements to obtain an FSC. It is unclear how a person would go about completing the live-fire demonstration to acquire an FSC without receiving a firearm. This may be clearer in regulation or practice, however, it may need clarity in statute, too.

   While the amended SB 948 does reduce the penalty for violators to an infraction, some of the goals of the bill may be more likely to be accomplished through additional educational and assistive resources. For example, if someone inherited a firearm from a deceased relative who knows nothing about this law and that person decided to relocate while managing the affairs of that deceased relative, during this hectic time in a person's life registering a report with DOJ is unlikely to be anywhere near their immediate set of priorities. Another example is a new resident to California who may be moving here for other reasons, like serving as a primary caregiver for an ailing family member or relocating for a significant new job opportunity. During these times, a newly arriving resident is understandably not going to be focused on obtaining an FSC and reporting their firearm(s) to DOJ.

6) **Constitutional Concerns**: SB 948 raises numerous constitutional concerns, including those involving the Second Amendment and Article IV of the United States Constitution.

   a) The Second Amendment

   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.)

   Complicating the Second Amendment analysis is new US Supreme Court precedent that held unconstitutional the Gun Control Act's (GCAs) categorical prohibition on firearms for unlawful users of drugs. (*U.S. v. Hemani* (June 18, 2026, No. 24-1234) 608 U.S.___ [2026 U.S. LEXIS 2559].) While the Court's holding is narrow and the issue in *Hemani* is not squarely relevant to this bill, the Court's application of *Bruen* and *Rahimi* in this case could indirectly impact SB 948 and other firearms laws. (*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."].) The Court's skepticism of categorical bans in the context of the GCA leaves unclear whether future Second Amendment challenges, in any context, will similarly require more particularized or individualized applications of firearms laws or greater scrutiny of blanket bans. (See *ibid.*)

Further complicating Second Amendment analysis is yet another new decision by the Court this month holding that Hawaii's law prohibiting licensed concealed-carry permit holders from carrying handguns on private property open to the public without the property owner's express authorization violates the Second and Fourteenth Amendments. (*Wolford v. Lopez* (June 25, 2026, No. 24-106) ___U.S.___.) The Court somewhat supplemented the traditional *Bruen* analysis in *Wolford* with subsidiary questions courts have addressed in previous cases and must answer in addition to evaluating the challenged law under the *Bruen* test. (*Ibid.*) Those questions include 1) does the law apply to "the people"—which is to say, to "all members of the political community?" 2) Does the law concern any form of "arms," i.e., any weapon customarily used for offensive or defensive purposes? 3) does the law place any restrictions on either the "keeping" (i.e., possession) or the "bearing" (i.e., carrying) of arms? (*Ibid.*) This third subsidiary question is really the threshold step in the Bruen analysis.

The Court noted at the threshold step of the *Bruen* analysis that if a challenged law falls within the plain text of the Second Amendment, it is presumptively unconstitutional, which means that it *may* violate the preexisting right that the Amendment codified. (*Ibid.*) At this step, the Court appears to suggest historical analysis is not required, but instead simply a plain textual analysis. (*Ibid.* [historical authorities cited by the State of Hawaii at the threshold step are out of place at this step of *Bruen* because "the question is simply whether a challenged law falls within the Second Amendment's 'plain text.'"].) "A party defending against a Second Amendment claim may rely on a single analogue or a group of analogues." (*Ibid.*) It is unclear whether the Court's statement here indicates that a single historical analogue is sufficient to justify the constitutionality of a firearms law.

While *Hemani* and *Wolford* offer answers to specific controversies over federal and state statutes in the context of the Second Amendment right to keep and bear arms, the *Bruen* test remained intact as the constitutional method of analyzing firearms laws. As it pertains to SB 948, a plain text reading of the Second Amendment's right to keep and bear arms will cover most conduct involving individuals who want to possess a firearm. This means SB 948 must be evaluated under the historical tradition test mandated in *Bruen* and reaffirmed in *Hemani* and *Wolford*. So, in the context of SB 948, we must evaluate whether there is a historical tradition, at least in principle, of relevantly similar firearms laws that regulate 1) a licensing/certification scheme regulating firearms ownership, i.e, keeping arms, and 2) a regulatory/licensing scheme aimed at firearms owners who are new residents to a state.

While *Bruen* found an insufficient historical tradition regulating arms-*bearing* conduct, arms-*keeping* conduct may have a greater tradition from which to work. In the roughly 300 years during the 1600s through the early 1900s, licensing laws were enacted in almost every state in the union, including the District of Columbia.[8] "At least 89 licensing requirement laws

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[8] Spitzer, *Historic Weapons Licensing Laws* (June 4, 2025) Duke Center for Firearms Law <https://firearmslaw.duke.edu/2025/06/historic-weapons-licensing-laws> [as of June 25, 2026].

were enacted in at least 34 states for individuals as a pre-requisite to carrying or owning weapons; 18 states enacted such laws in the 1800s and 29 did so in the 1900s (some states enacted laws in multiple centuries)."[9]

Approximately 27 states enacted laws regulating discharge of firearms through licensing between the 1700s and 1900.[10] Hunting licensing laws were enacted in at least 12 states during this time.[11] 21 states required a license for the commercial sale, transport, or firing of weapons during roughly the same period of time.[12] A minimum of 22 states required a license for the possession, handling, or transport of gunpowder.[13] "Laws in at least 17 states required those selling or otherwise providing weapons to individuals to record and keep information pertaining to the buyers of weapons in the late 1800s and early 1900s."[14]

Historic licensing laws for ownership were significant because they relatively frequently regulated for similar reasons and in similar ways.[15] "In short, weapons licensing was a ubiquitous regulatory tool from the country's beginnings that then spread widely in the nineteenth century." Historical support could very well be constitutionally sufficient to justify SB 948's new FSC requirements.

Answering whether there is a historical tradition of regulating firearms conduct for new residents to a state is more difficult. As an initial matter, interstate travel is a fundamental right protected pursuant to numerous constitutional provisions. (*Saenz v. Roe* (1999) 526 U.S. 489, 501–02.) This complicates the Second Amendment analysis both because of the intersection with other constitutional provisions and attempting to ascertain what, if any, hierarchical treatment is needed for evaluating the historical tradition of a fundamental right (to keep arms) in conjunction with another fundamental right (the right to interstate travel, including the right to become a new resident of a state). Identifying and evaluating these rights independently is a simpler task than evaluating them together. Due to the ambiguity with this second question and other difficulties, it is unclear whether SB 948 will encounter fatal constitutional scrutiny.

b) Article IV – Privileges and Immunities[16]

The US Constitution states that, "the Citizens of each State shall be entitled to all Privileges and Immunities of Citizens in the several States." (U.S. Const., art. IV, §, cl. 2.) This clause is meant "to place the citizens of each State upon the same footing with citizens of other States." (*United Bldg. & Constr. Trades Council v. Camden* (1984) 465 U.S. 208, 215-216.) The purpose behind this clause, like that relating to full faith and credit, is to help forge one nation among a collection of independent, sovereign states. (*Id.* at p. 216.) To this end, the

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[9] *Ibid.*
[10] *Ibid.*
[11] *Ibid.*
[12] *Ibid.*
[13] *Ibid.*
[14] *Ibid.*
[15]
[16] It is important to note that although there is some overlap between Article IV's Privileges *and* Immunities Clause and the Fourteenth Amendment's Privileges *or* Immunities Clause, these constitutional provisions are doctrinally distinct. The author does not intend to analyze the bill under the Privileges or Immunities Clause, though some case law invokes both clauses.

Privileges and Immunities Clause prohibits certain types of discrimination between in-state and out-of-state residents.

Discrimination only implicates this clause, however, when it relates to a right or activity that is "sufficiently fundamental." (*Baldwin v. Montana Fish and Game Commission* (1978) 436 U. S. 371, 383.) "Only with respect to those 'privileges' and 'immunities' bearing upon the vitality of the Nation as a single entity must the State treat all citizens, resident and nonresident, equally." (*Ibid.*) Application of the Privileges and Immunities Clause to an instance of discrimination against out-of-state residents involves a two-step inquiry. (*Supreme Ct. of N.H. v. Piper* (1985) 470 U.S. 274, 280.) First, the state must demonstrate that the law has a substantial reason for the difference in treatment. (*Ibid.*) Second, the discrimination made in the law must bear a substantial relationship to the law's objective. (*Ibid.*) Included in the Clause's protections are laws that have the "practical effect" of discriminating between in-state and out-of-state residents. (*Hillside Dairy Inc. v. Lyons* (2003) 539 U.S. 59, 67.) The lack of an express statement in the laws and regulations identifying out of-state residency as a basis for disparate treatment is not a sufficient basis for rejecting a claim under the Privileges and Immunities Clause. (*Ibid.*) Every inquiry under the Privileges and Immunities Clause "must . . . be conducted with due regard for the principle that the States should have considerable leeway in analyzing local evils and in prescribing appropriate cures." (*Camden, supra,* at pp. 222-23.)

SB 948 could face scrutiny under the Privileges and Immunities Clause because the requirement that new residents, or personal firearm importers, send a report to DOJ with a valid FSC shortly after moving into California is not required of current residents. Existing law already requires newly arriving residents to send a report to DOJ with specific information (Pen. Code, § 27560), but SB 948 would mandate a valid FSC be included with the report and failure to do so punishable with an infraction. So, this bill would not only create a distinction between existing and new residents but only subject those new residents to a criminal penalty. Because the FSC requirement applies to all firearms owners in California, the law arguably does not discriminate between current and new residents. Though it is not entirely clear that the distinction SB 948 would create is the type of disparate treatment proscribed by Article IV, it is nevertheless worth evaluating the law under the two-step test used by courts.

There is a sound argument that a substantial reason exists for the difference in treatment between existing and new residents as it applies to SB 948's updated reporting requirement. As an initial matter, it is difficult to envision another mechanism by which California could capture the type of data from new residents who own firearms that it captures through the Dealer Record of Sale (DROS) process for current residents. Two reasons for collecting this data is rooted in protecting public safety and reducing unsafe conduct involving firearms, which can contribute to the maintenance and protection of public safety. Because public safety is almost certainly a valid, substantial state interest, it is likely this reason is sufficient to justify the disparate treatment. Whether the discrimination in the law bears a substantial relationship to the law's objective may be a more difficult question. Due to the practical application of the DROS process, however, it may be argued that DROS and the new personal firearm importer requirements are functionally the same and thus, the discrimination is not a matter of intent but one of limited alternatives. Given these issues, it is ultimately difficult to ascertain how SB 948 would be evaluated under this second step of the Privileges and Immunities Clause analysis or whether an Article IV concern exists at all.

Certain complications remain, however, even with sound arguments supporting the bill in the face of Article IV's restrictions. One right protected by the Privileges and Immunities Clause is the right to interstate travel. (*Saenz, supra.*) While generally this right has been protected in the context of durational residency requirements to qualify for certain benefits, an argument could be made that SB 948 burdens the right to interstate travel because California's labyrinthine firearms laws make incompatible the ability to exercise a fundamental right during relocation. Another Article IV right acknowledged, at least in part by the Court, is the right to acquire and own property. (*Oyama v. California* (1948) 332 U.S. 633.) Ultimately, the right to keep and bear arms is not an obvious fundamental right *for Article IV purposes*, i.e, bearing upon the vitality of the nation as a whole, but we know from *McDonald* it is a fundamental right for purposes of the Fourteenth Amendment's Due Process Clause (*McDonald, supra.*) A different legal theory may need to be advanced instead of the Second Amendment right for an Article IV challenge to make sense, like the right of interstate travel or the right to retain property. Thus, Article IV is unlikely to be a common source of authority under which SB 948 would face challenge or terminal scrutiny.

7) **Committee Amendments**: Amendments taken in committee include changing the misdemeanor penalty to an infraction for 1) failing to submit a valid FSC and 2) personal firearm importers who bring any firearm, except an antique firearm, into California without obtaining a valid firearm safety certificate within 180 days of bringing that firearm into California if the person is required to report the importation of the firearm.

8) **Argument in Support**: According to the bill's sponsor, the *Brady United Against Gun Violence*, "California has the most comprehensive system of regulating firearms purchases and possession, yet currently does not require either training or education to obtain a firearms safety certificate. It is common sense that those who are purchasing a firearm should be properly trained on how to use, handle, and store firearms and should participate in live-fire training. However, a study from 2015 found that nearly 40% of all gun owners never received any training.

"Firearm training is crucial not only as an effective means to prevent accidental shootings, it also equips gun purchasers to actually protect themselves in the way they envision. Referring to self-defense situations, a study noted that "the quality and frequency of training to maintain acquired skills is predictive of how someone with a firearm will react in a stressful situation and whether they can successfully defend themselves." For example, a police spokesman and a law enforcement firearms trainer told the study's authors "when your adrenaline is pumping and your heart is beating faster, you're not going to shoot the same way you do at the range — not without a lot of training." Another study participant, an NRA member and firearms instructor likewise told the authors that, "in a life-or-death encounter, a gun is only as good as its user's training." The study author's thus concluded that "citizens who seek to carry a firearm, open or concealed, should be a person of sound character and have a minimum skill with the use of a firearm in a stressful situation of self-defense." The study accordingly suggested that civilian gun owners should undertake a combination of classroom, live fire, and judgment shooting. The authors also noted that these reasonable training requirements pale in comparison to what states regularly demand of would-be drivers in driver's training or would-be business owners who want to cut hair or paint nails.

"The responsibilities inherent in carrying a firearm attach from the moment a person takes possession of the firearm, which makes coupling firearm purchasing with training sound policy. Indeed, several other states already require training for gun purchase or possession including Oregon, New Jersey, Delaware, Hawaii, Massachusetts and Maryland. It is time for California to do the same.

"This bill builds on current Department of Justice requirements to ensure that, on after July 1, 2028, gun purchasers have robust and meaningful training. The one-day training would include instruction on firearm safety and handling and live-fire shooting exercises on a firing range. Additionally, this bill will require individuals who establish residency in California and bring a firearm from outside the state to obtain a firearm safety certificate."

9) **Argument in Opposition**: According to the *California Rifle and Pistol Association*, "Even with the recent amendments extending the personal firearm importer reporting period from 60 to 180 days and reducing the mandated training from eight to four hours, SB 948 remains an unnecessary, burdensome, and constitutionally flawed expansion of government control over law-abiding firearm owners. The bill continues to transform the simple Firearm Safety Certificate (FSC) written test into a de facto licensing regime with mandatory in-person training requirements.

"Key Problems with the Amended Bill:

"New Mandatory In-Person Training Requirement (Effective July 1, 2028)

"FSC applicants must complete a state-mandated four-hour training course within the prior year, including classroom instruction on specified topics and at least one hour of live-fire shooting exercises on a firing range. The course must be taught by DOJ-certified instructors. While CRPA has long supported voluntary firearms safety training through our own programs, we oppose government-mandated live-fire training as a prerequisite for exercising Second Amendment rights.

"Personal Firearm Importer Restrictions

"The bill requires individuals bringing firearms into California (including new residents) to obtain a valid FSC within 180 days and submit it with their DOJ report. This imposes immediate compliance burdens on law-abiding citizens who already lawfully own firearms under the standards of their prior state.

"Significant Ongoing Concerns:

"Capacity and Access Barriers: California's shooting ranges and certified instructors lack the capacity to handle the anticipated surge in demand for mandatory live-fire sessions. Rural and underserved areas will face severe shortages, long wait times, and denials of access to a constitutional right.

"Financial Burden: The bill imposes no cost caps on training fees, range time, or travel. This will disproportionately harm low-income families, seniors, first-time buyers, and residents in remote areas.

"Lack of Public Safety Benefit: California's existing FSC test already covers core safety and legal topics. There is no credible evidence that adding mandatory live-fire training will reduce accidents or crime. The bill targets compliant owners rather than prohibited persons or enforcement of current laws.

"Constitutional Issues: Under the U.S. Supreme Court's Bruen decision, firearm regulations must be consistent with this nation's historical tradition. Mandatory government-approved training and live-fire proficiency as a condition of ownership or importation lacks historical analogue and impermissibly burdens the core Second Amendment right.

"Exemptions and Inequities: The bill exempts valid concealed carry permit holders from the new training but continues to impose barriers on other responsible citizens who have demonstrated competence through prior ownership and training elsewhere.

"CRPA urges the Assembly Public Safety Committee to reject SB 948 in its entirety. Public safety is better served by enforcing existing laws against prohibited persons, prosecuting violent criminals, and supporting voluntary education programs — not by adding more restrictions that burden law-abiding firearm owners."

10) **Related Legislation**:

a) SB 1220 (Hurtado) would add to the 10-year firearms prohibition list a person who engaged in prohibited conduct with an unserialized firearm and subject violators to a misdemeanor. SB 1220 is pending hearing in the Assembly Appropriations 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 has been ordered to engrossing and enrolling in the Assembly.

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.

11) **Prior Legislation**:

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

b) SB 241 (Min), Chapter 250, Statutes of 2023, requires a licensee and any employees that handle firearms to annually complete specified training. This law requires the DOJ, on or before February 1, 2026, to develop and implement a training course, as specified, including a testing certification component.

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

d) AB 1420 (Berman), Chapter 245, Statutes of 2023, authorizes the DOJ to conduct inspections and assess a fine for any violation of provisions relating to regulation of specified licenses and for violations of specified provisions regulating the sale of secondhand firearms.

e) SB 1253 (Gonzales), of the 2023-2024 Legislative Session, would have prohibited bringing any firearm, except an antique firearm, into this state as a personal firearm importer, as defined, without obtaining a valid firearm safety certificate within 120 days of bringing that firearm into this state.

REGISTERED SUPPORT / OPPOSITION:

Support

Brady California (Co-Sponsor)
Brady United Against Gun Violence (Co-Sponsor)
Consumer Protection Policy Center/USD School of Law (Co-Sponsor)
Brady Campaign
California Chapter of the American College of Emergency Physicians
Everytown for Gun Safety Action Fund
Giffords
Moms Demand Action for Gun Sense in America
Students Demand Action for Gun Sense in America
Team Enough - UC Berkeley Chapter

Opposition

California Rifle and Pistol Association, INC.
California Waterfowl Association
Congressional Sportsmen's Foundation
Delta Waterfowl
Gun Owners of California, INC.
National Rifle Association - Institute for Legislative Action
Sci California Coalition
1 Private Individuals

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

Amended Mock-up for 2025-2026 SB-948 (Arreguín (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 27560 of the Penal Code is amended to read:

27560. (a) (1) Within 180 days after bringing any firearm into this state, a personal firearm importer, as defined in Section 17000, shall do one of the following:

(A) Submit to the Department of Justice, in a form and manner prescribed by the department, a report including information concerning that individual and a description of the firearm in question. The department may request photographs of the firearm to determine if the firearm is a generally prohibited weapon, assault weapon, or machinegun, or is otherwise prohibited. A person shall not furnish a fictitious name or address, knowingly furnish any incorrect information, or knowingly omit any information required to be provided in this report. A personal firearm importer shall obtain a valid firearm safety certificate, pursuant to paragraph (3) of subdivision (a) of Section 31615, and include a copy of the valid firearm safety certificate within the report. Notwithstanding Section 27590, the failure to include a firearm safety certificate within the report shall be deemed to be a violation of Section 31615, and shall be punished under that section.

(B) Sell or transfer the firearm in accordance with the provisions of Section 27545 or in accordance with the provisions of an exemption from Section 27545.

(C) Sell or transfer the firearm to a dealer licensed pursuant to Article 1 (commencing with Section 26700) and Article 2 (commencing with Section 26800) of Chapter 2.

(D) Sell or transfer the firearm to a sheriff or police department.

(2) The department shall establish a fee for submission of the form described in subparagraph (A) of paragraph (1) and an additional fee for each additional firearm. This fee shall not exceed the reasonable and actual costs of processing the form submitted pursuant to that paragraph. The department may annually review and adjust this fee to fully fund, but not exceed, these costs.

(3) Upon receipt of the report submitted pursuant to subparagraph (A) of paragraph (1) and the required fee, the department shall examine its records, as well as those records that it is authorized to request from the State Department of State Hospitals pursuant to Section 8104 of the Welfare

and Institutions Code, and records available to the department in the National Instant Criminal Background Check System, to determine if the purchaser is prohibited by state or federal law from possessing, receiving, owning, or purchasing a firearm.

(b) If all of the following requirements are satisfied, the personal firearm importer shall have complied with the provisions of this section:

(1) The personal firearm importer sells or transfers the firearm pursuant to Section 27545.

(2) The sale or transfer cannot be completed by the dealer to the purchaser or transferee.

(3) The firearm can be returned to the personal firearm importer.

(c) (1) The provisions of this section are cumulative and shall not be construed as restricting the application of any other law.

(2) However, an act or omission punishable in different ways by this article and different provisions of the Penal Code shall not be punished under more than one provision.

(d) The department shall conduct a public education and notification program regarding this section to ensure a high degree of publicity of the provisions of this section.

(e) As part of the public education and notification program described in this section, the department shall do all of the following:

(1) Work in conjunction with the Department of Motor Vehicles to ensure that any person who is subject to this section is advised of the provisions of this section, and provided with blank copies of the report described in subparagraph (A) of paragraph (1) of subdivision (a), at the time when that person applies for a California driver's license or registers a motor vehicle in accordance with the Vehicle Code.

(2) Make the reports referred to in subparagraph (A) of paragraph (1) of subdivision (a) available to dealers licensed pursuant to Article 1 (commencing with Section 26700) and Article 2 (commencing with Section 26800) of Chapter 2.

(3) Make the reports referred to in subparagraph (A) of paragraph (1) of subdivision (a) available to law enforcement agencies.

(4) Make persons subject to the provisions of this section aware of all of the following:

(A) The report referred to in subparagraph (A) of paragraph (1) of subdivision (a) may be completed at either a law enforcement agency or the licensed premises of a dealer licensed pursuant to Article 1 (commencing with Section 26700) and Article 2 (commencing with Section 26800) of Chapter 2.

(B) It is advisable to do so for the sake of accuracy and completeness of the report.

(C) Before transporting a firearm to a law enforcement agency to comply with subdivision (a), the person should give notice to the law enforcement agency that the person is doing so.

(D) In any event, the handgun should be transported unloaded and in a locked container and a firearm that is not a handgun should be transported unloaded.

(f) Any costs incurred by the department to implement this section shall be absorbed by the department within its existing budget and the fees in the Dealers' Record of Sale Special Account allocated for implementation of subdivisions (d) and (e) of this section pursuant to Section 28235.

SEC. 2. Section 31615 of the Penal Code is amended to read:

31615. (a) A person shall not do any of the following:

(1) Purchase or receive any firearm, except an antique firearm, without a valid firearm safety certificate, except that in the case of a handgun, an unexpired handgun safety certificate may be used.

(2) Sell, deliver, loan, or transfer any firearm, except an antique firearm, to any person who does not have a valid firearm safety certificate, except that in the case of a handgun, an unexpired handgun safety certificate may be used.

(3) Bring any firearm, except an antique firearm, into this state without obtaining a valid firearm safety certificate within 180 days of bringing that firearm into this state if the person is required to report the importation of the firearm to the department pursuant to subparagraph (A) of paragraph (1) of subdivision (a) of Section 27560.

~~**(b) Any person who violates subdivision (a) is guilty of a misdemeanor.**~~

(b)(1) Any person who violates paragraph (1) or (2) of subdivision (a) is guilty of a misdemeanor.

(2) Any person who violates paragraph (3) of subdivision (a) is guilty of an infraction.

(c) The provisions of this section are cumulative, and shall not be construed as restricting the application of any other law. However, an act or omission punishable in different ways by different provisions of this code shall not be punished under more than one provision.

(d) Paragraph (3) of subdivision (a) shall not apply to a person if evidence of that violation arises only as the result of the person applying for a firearm safety certificate after the expiration of the ~~**60**~~ **180**-day period in paragraph (3) of subdivision (a).

SEC. 3. Section 31640.5 is added to the Penal Code, to read:

31640.5. (a) An applicant for a firearm safety certificate on or after July 1, 2028, shall have completed a training course within the prior year that meets all of the following conditions:

(1) The training shall be no less than four hours in length, including at least one hour of live shooting.

(2) The training shall include instruction on all of the following:

(A) Federal and state laws related to possession, transportation, and storage of firearms, including the transfer of a firearm.

(B) The importance of secure storage to prevent unauthorized access and use of firearms.

(C) Safe firearm handling and fundamentals of shooting firearms.

(D) How to legally and voluntarily surrender or transfer a firearm.

(E) State laws pertaining to self-defense, use-of-force guidelines, and techniques for conflict resolution.

(3) The training shall be taught and supervised by firearms instructors certified by the Department of Justice pursuant to Section 31635.

(4) The live-fire shooting exercises shall take place on a firing range and shall include a demonstration by the applicant of safe handling of firearms and basic firearm shooting proficiency.

(b) The training course requirement shall not apply to individuals with valid concealed carry weapons permits.

(c) The Department of Justice may promulgate regulations and provide additional information for the implementation of this section.

(d) The Dealers' Record of Sale Special Account may be used, upon appropriation by the Legislature, for any costs associated with this law's implementation and ongoing expenses.

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

Date of Hearing: June 30, 2026
Counsel: Mary Kennedy

ASSEMBLY COMMITTEE ON PUBLIC SAFETY
Nick Schultz, Chair

SB 962 (Archuleta) – As Amended May 14, 2026

SUMMARY: This bill authorizes parole officers to display the blue warning light from their emergency vehicles if they complete a four-hour training regarding the operation of emergency vehicles, as specified. Specifically, **this bill**:

1) Additionally authorizes a parole officer to display the blue warning light from their emergency vehicles.

2) Requires a parole officer to complete a four-hour classroom training course regarding the operation of emergency vehicles that is certified by the Commission on Peace Officers Standards and Training (POST) before operating an emergency vehicle with a blue warning light.

EXISTING LAW:

1) Provides that the authority of parole officers extends to any place in the state while engaged in the performance of the duties of their employment and for the purpose of carrying out the primary function of their employment, but shall otherwise be limited as follows:

   a) To conditions of parole, probation, mandatory supervision, or postrelease community supervision by any person in this state on parole, probation, mandatory supervision, or postrelease community supervision;

   b) To the escape of any inmate or ward from a state or local institution;

   c) To the transportation of persons on parole, probation, mandatory supervision, or postrelease community supervision;

   d) To violations of any penal provisions of law which are discovered while performing the usual or authorized duties of the officer's employment;

   e) To the rendering of mutual aid to any other law enforcement agency. (Pen. Code, § 830.5.)

2) Establishes POST to set minimum standards for the recruitment and training of peace officers, develop training courses and curriculum, and establish a professional certificate program that awards different levels of certification based on training, education, experience, and other relevant prerequisites. (Pen. Code, §§ 830-832.10, 13500 et seq.)

3) Requires POST to implement a course or courses of instruction for the regular and periodic training of law enforcement officers in the handling of high-speed vehicle pursuits and to

also develop uniform, minimum guidelines for adoption and promulgation by California law enforcement agencies for response to high-speed vehicle pursuits. The guidelines and course of instruction are required to stress the importance of vehicle safety and protecting the public at all times; include a regular assessment of law enforcement's vehicle pursuit policies, practices, and training; and recognize the need to balance the known offense and the need for immediate capture against the risks to officers and other citizens of a high-speed pursuit. These guidelines must also be a resource for each agency executive to use in the creation of a specific pursuit policy that the agency is encouraged to adopt and promulgate, and that reflects the needs of the agency, the jurisdiction it serves, and the law. (Pen. Code, § 13519.8.)

4) Establishes within the Department of Corrections and Rehabilitation (CDCR) a Commission on Correctional Peace Officer Standards and Training (CPOST). (Pen. Code, § 13600, subd. (b).)

5) Provides that CPOST shall develop, approve, and monitor standards for the selection and training of state correctional peace officer apprentices, and vests CPOST with other duties related to the training and duties of employees under its purview. (Pen. Code, § 13601.)

6) Requires CDCR to adhere to the training standards developed by CPOST at all locations where training is provided. (Pen. Code, § 13602, subd. (a).)

7) Requires CPOST to determine on-the-job training requirements for correctional peace officers. (Pen. Code, § 13603, subd. (b).)

8) Defines an "authorized emergency vehicle" to include a publicly owned vehicle operated by any federal, state, or local agency, department or district employing peace officers, as defined. (Veh. Code, § 165, subd. (b)(1).)

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

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

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

10) Provides that the above provision does not relieve the driver of a vehicle from the duty to drive with due regard for the safety of all persons using the highway, nor protect them from the consequences of an arbitrary exercise of the privileges granted in that section. (Veh. Code, § 21056.)

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

12) Provides that every authorized emergency vehicle may be equipped with a system which flashes the upper-beam headlamps of the vehicle with the flashes occurring alternately from the front headlamp on one side of the vehicle to the front headlamp on the other side of the vehicle, as specified. (Veh. Code, § 25252.5.)

13) Allows any authorized emergency vehicle to display flashing amber warning lights to the front, sides, or rear, and allows a vehicle operated by a police or traffic officer while in the actual performance of their duties to display steady burning or flashing white lights to either side mounted above the roofline of the vehicle, as specified. (Veh. Code, § 25259.)

14) Allows an authorized emergency vehicle operating under specified conditions to display a flashing white light from a gaseous discharge lamp designed and used for the purpose of controlling official traffic control signals. (Veh. Code, § 25258 subd. (a).)

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

16) Requires a probation officer, before operating an emergency vehicle with a blue warning light, to complete a four-hour classroom training course regarding the operation of emergency vehicles that is certified by the Standards and Training for Corrections Division of the Board of State and Community Corrections (BSCC). (Veh. Code, § 25258 subd. (b)(2).)

FISCAL EFFECT: Unknown

COMMENTS:

1) **Sponsor:** California Correctional Peace Officers Association (CCPOA)

2) **Author's statement:** According to the author, "Without blue warning lights, other law enforcement officers and first responders are less likely to recognize, assist and support parole officers in the performance of their duties. This is especially important in cases where an officer is transporting someone who is suffering from a medical emergency, such as in the case of Agent Joshue Byrd. Agent Byrd was shot and killed in the line of duty on July 17, 2025. Emergency services were unable to reach the scene, and parole officer vehicles present did not have emergency lights. Agent Byrd's colleagues were unable to quickly transport him to the ambulance's staging or the hospital itself, and he passed away from his injuries. When something like this happens, every second counts. The Parole Officers' branch of the California Correctional Peace Officers Association (CCPOA) has been asking for blue lights on their vehicles for years. CDCR has consistently denied this request because of cost. Now, CDCR has issued a new policy allowing certain parole officers to be issued amber lights on

their vehicles for celebrations. This new policy begs the question: why is CDCR willing to pay for a purely ceremonial light but not one that is proven to be lifesaving?"

3) **Blue Warning Lights:** California law tightly regulates the use of lighting on vehicles that operate on California roads, including lighting equipped on authorized emergency vehicles. Existing law defines "authorized emergency vehicle" to include any publicly owned vehicle operated by any federal, state, or local agency, department or district employing peace officers. (Veh. Code, § 165, subd. (b).) Existing law permits, but does not require, various classes of peace officer to affix a blue warning light to their vehicles, a group that has been expanded over time. (Veh. Code, § 25258, subd. (b).) In 2017, the Legislature passed SB 587 (Atkins), Chapter 286, Statutes of 2017, which added probation officers to this list, provided they completed a four hour classroom training course certified by the BSCC.

   Under existing law, parole officers are not included in the class of peace officers that may affix a blue warning light to their vehicles. According to the author, this poses a problem when parole agents are transporting someone suffering from a medical emergency, or when parole agents are assisting other law enforcement. This bill authorizes parole officers to display blue warning lights from their vehicles, and imposes a training requirement similar to that in existing law for probation officers. This bill, however, provides that the 4-hour classroom training course must be certified not by the BSCC, but rather by CPOST, which falls under the ambit of CDCR.

4) **Argument in Support:** According to the *California Correctional Peace Officers Association*, "SB 962 authorizes, but does not require, the California Department of Corrections and Rehabilitation (CDCR) to install and use blue warning lights on parole officer vehicles for officers who complete a certified emergency vehicle operations training course approved by the Commission on Correctional Peace Officer Standards and Training (CPOST). The bill does not expand pursuit authority or alter existing pursuit policies.

   "SB 962 is grounded in the tragic loss of Parole Agent Joshua Byrd, who was killed in the line of duty in July 2025. During the emergency response, the absence of vehicle recognition lights and sirens delayed fellow officers' ability to transport Agent Byrd to emergency medical care. His death highlighted a critical gap in basic emergency response tools available to frontline parole agents.

   "Across California, numerous peace officers - including probation officers, district attorney investigators, university police, and park rangers - already utilize blue warning lights on official vehicles. SB 962 simply provides the department with the authority to extend similar tools more broadly if deemed appropriate. CDCR itself recognized the importance of this equipment earlier this year by authorizing emergency lighting and training for certain managerial and supervisory parole personnel. Yet, rank-and-file parole agents, who are most frequently in the field and exposed to rapidly evolving situations, remain without access to this critical safety equipment.

   "SB 962 addresses this gap by authorizing CDCR to equip frontline parole officers with vehicle recognition lighting and appropriate training. Providing blue warning lights will enhance officer safety, improve coordination with responding law enforcement and emergency personnel, and support more effective responses during time-sensitive incidents."

5) **Prior Legislation:**

a) SB 349 (Archuleta), of the 2025-2026 Legislative Session, would have authorized parole officers to display blue warning lights from their emergency vehicles if they completed a four hour classroom training by CPOST. SB 349 got held in the Senate Appropriations Committee.

b) SB 1021 (Archuleta), of the 2023-2024 Legislative Session, would have authorized parole officers to display blue warning lights from their emergency vehicles if they completed a four hour classroom training by BSCC. SB 1021 was held in the Senate Appropriations Committee.

c) SB 587 (Atkins), Chapter 386, Statutes of 2017, would have authorized probation officers to display blue warning lights.

d) AB 2224 (Achadjian), of the 2015-2016 Legislative Session, would have authorized probation officers to display blue warning lights. AB 2224 failed in the Assembly Transportation Committee.

REGISTERED SUPPORT / OPPOSITION:

Support

California Association of Highway Patrolmen
California Correctional Peace Officers Association (CCPOA)
Peace Officers Research Association of California (PORAC)

Opposition

None submitted.

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

Date of Hearing: June 30, 2026
Counsel: Kimberly Horiuchi

ASSEMBLY COMMITTEE ON PUBLIC SAFETY
Nick Schultz, Chair

SB 1056 (Grayson) – As Amended June 24, 2026

SUMMARY: Requires a court to issue a protective order governing the disclosure of sexually explicit material of an adult victim (SEMAV), as specified, in any case where a defendant is being prosecuted for a serious felony, as specified, that is required to register as a sex offender, or any case pertaining to specified offenses involving distributing intimate images of another person without consent. Specifically, **this bill**:

1) Mandates a court issue, upon a noticed motion of either the prosecutor or the defense attorney, or on its own motion with notice and a meaningful opportunity to be heard by both parties, a protective order governing the disclosure of SEMAV by any party, with conditions sufficient to do all of the following:

   a) Safeguard the adult victim's privacy.

   b) Prevent unnecessary copying, transmission, or dissemination of the material.

   c) Ensure the defendant's right to a fair trial and a meaningful opportunity to participate in their own defense.

2) Mandates, if a defendant is representing themselves, that the court consider whether the protective order should include a requirement that the material be viewed at the courthouse or in a secured location. In any case, the defendant shall not retain a copy of the material after the case has ended.

3) States if the court issues a protective order, the parties are prohibited from disclosing to any person copies of SEMA, unless specifically permitted to do so by the terms of the protective order.

4) Authorizes an attorney for any party to disclose SEMAV, subject to the protective order, to any person necessary for the preparation of the case, including the defendant.

5) Specifies that the provisions of this bill do not relieve the prosecution from the duty to disclose the existence of any relevant or exculpatory evidence.

6) States that this bill is not intended to affect the admissibility of any relevant evidence in any court proceeding.

EXISTING LAW:

1) Requires that the state's discovery rules be interpreted to give effect to all the following purposes:

   a) To promote the ascertainment of truth in trials by requiring timely pretrial discovery.

   b) To save court time by requiring that discovery be conducted informally between and among the parties before judicial enforcement is requested.

   c) To save court time in trial and avoid the necessity for frequent interruptions and postponements.

   d) To protect victims and witnesses from danger, harassment, and undue delay of the proceedings.

   e) To provide that no discovery shall occur in criminal cases except as provided, other express statutory provisions, or as mandated by the Constitution of the United States. (Pen. Code, § 1054.)

2) Requires the prosecuting attorney to disclose to the defendant or his or her attorney specified materials and information, if it is in the possession of the prosecuting attorney or if the prosecuting attorney knows it to be in the possession of the investigating agencies, such as the names of persons the prosecutor intends to call as witnesses at trial, all relevant real evidence seized or obtained as a part of the investigation of the offenses charged, any exculpatory evidence, and relevant written or recorded statements of witnesses or reports of the statements of witnesses whom the prosecutor intends to call at the trial, among other things. (Pen. Code, § 1054.1.)

3) Prohibits an attorney from disclosing or permitting to be disclosed to a defendant, members of the defendant's family, or anyone else, the personal identifying information of a victim or witness whose name is disclosed to the attorney by the prosecution, other than the name of the victim or witness, unless specifically permitted to do so by the court after a hearing and a showing of good cause. (Pen. Code, § 1054.2, subd. (a)(1).)

4) Requires the court, if the defendant is acting as their own attorney, to endeavor to protect the personal identifying information of a victim or witness by providing for contact only through a private investigator licensed by the Department of Consumer Affairs and appointed by the court or by imposing other reasonable restrictions, absent a showing of good cause as determined by the court. (Pen. Code, § 1054.2, subd. (b).)

5) States no order requiring discovery shall be made in criminal cases except as provided in the discovery rules. The discovery rules shall be the only means by which the defendant may compel the disclosure or production of information from prosecuting attorneys, law enforcement agencies which investigated or prepared the case against the defendant, or any other persons or agencies which the prosecuting attorney or investigating agency may have employed to assist them in performing their duties. (Pen. Code, § 1054.5, subd. (a).)

6) Defines the following offenses as "serious" felonies:

a) Murder or voluntary manslaughter;

b) Mayhem;

c) Rape;

d) Sodomy by force, violence, duress, menace, or threat or fear of bodily injury;

e) Oral copulation by force, violence, duress, menace or threat or fear of bodily injury;

f) Lewd act with child under fourteen years of age;

g) Any felony punishable by death or life imprisonment;

h) Any felony in which defendant personally inflicts great bodily injury on any person other than an accomplice or personally uses a firearm;

i) Attempted murder;

j) Assault with intent to commit rape or robbery;

k) Assault with a deadly weapon or instrument on a peace officer;

l) Assault by a life prisoner on a non-inmate;

m) Assault with a deadly weapon by an inmate;

n) Arson;

o) Exploding a destructive device or any explosive with intent to injure;

p) Exploding a destructive device or any explosive causing bodily injury, great bodily injury, or mayhem;

q) Exploding a destructive device or any explosive with intent to murder;

r) Burglary of an inhabited dwelling;

s) Robbery or bank robbery;

t) Kidnapping;

u) Holding a hostage by an inmate;

v) Attempt to commit a crime punishable by life imprisonment or death;

w) Any felony where defendant personally used a dangerous or deadly weapon;

x) Selling, furnishing, administering, giving, heroin, cocaine, PCP, or methamphetamine to a minor;

y) Forcible penetration with a foreign object;

z) Grand theft involving a firearm;

aa) Any gang-related felony;

bb) Assault with the intent to commit mayhem or specified sex offenses;

cc) Maliciously throwing acid or flammable substances;

dd) Witness intimidation;

ee) Assault with a deadly weapon or firearm or assault on a peace officer or firefighter;

ff) Assault with a deadly weapon on a public transit employee;

gg) Criminal threats;

hh) Discharge of a firearm at an inhabited dwelling, vehicle, or aircraft;

ii) Commission of rape or sexual penetration in concert;

jj) Continuous sexual abuse of a child;

kk) Shooting from a vehicle;

ll) Any attempt to commit a "serious" felony other than assault;

mm) Any violation of the 10 years, 20 years, 25 years to life gun law;

nn) Possession or use of any weapon of mass destruction;

oo) Sex trafficking of a minor except where the person committing the offense was a victim of human trafficking at the time of the offense; and,

pp) Any conspiracy to commit a "serious" felony. (Pen. Code, § 1192.7, subd. (c).)

7) Provides that disclosures required under the discovery statute shall be made at least 30 days prior to the trial, unless good cause is shown why a disclosure should be denied, restricted, or deferred. If the material and information becomes known to, or comes into the possession of, a party within 30 days of trial, disclosure shall be made immediately, unless good cause is shown why a disclosure should be denied, restricted, or deferred. (Pen. Code, § 1054.7.)

8) Defines "good cause" for purposes of the discovery rules as threats or possible danger to the safety of a victim or witness, possible loss or destruction of evidence, or possible

compromise of other investigations by law enforcement. (Pen. Code, § 1054.7.)

9) Prohibits any prosecuting attorney, attorney for the defendant, or investigator for either the prosecution or the defendant from interviewing, questioning, or speaking to a victim or witness whose name has been disclosed by the opposing party pursuant to the discovery rules without first clearly identifying themselves, identifying the full name of the agency by whom [they are] employed, and identifying whether they represent or have been retained by, the prosecution or the defendant. If the interview takes place in person, the party shall also show the victim or witness a business card, official badge, or other form of official identification before commencing the interview or questioning. (Pen. Code, § 1054.8, subd. (a).)

10) Makes it a misdemeanor to look through a hole or opening, into, or otherwise view, by means of any instrumentality, including, but not limited to, a camera, motion picture camera, camcorder, mobile phone, electronic device, or unmanned aircraft system, the interior of a bedroom, bathroom, changing room, fitting room, dressing room, or tanning booth, or the interior of any other area in which the occupant has a reasonable expectation of privacy, with the intent to invade the privacy of a person or persons inside. (Pen. Code, § 647, subd. (j)(1).)

11) Makes it a misdemeanor 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 under or through the clothing being worn by that other person, 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, with the intent to arouse, appeal to, or gratify the lust, passions, or sexual desires of that person and invade the privacy of that other person, under circumstances in which the other person has a reasonable expectation of privacy. (Pen. Code, § 647, subd. (j)(2).)

12) Makes it a misdemeanor 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).)

13) Makes it a misdemeanor to intentionally distribute an image of another identifiable person's intimate body parts or depicting the person engaged in one of several specified sex acts, under circumstances in which the persons agree or understand that the image shall remain private, when the person distributing the image knows, or should know, that its distribution will cause serious emotional distress, and where the person depicted suffers that distress. (Pen. Code, § 647, subd. (j)(4)(A).)

14) Provides that a person intentionally distributes an image when that person distributes the image or arranges, specifically requests, or intentionally causes another person to distribute that image. (Pen. Code, § 647, subd. (j)(4)(B).)

15) Defines "intimate body part" as any portion of the genitals, the anus, and in the case of a female, also includes any portion of the breasts below the top of the areola that is either uncovered or clearly visible through clothing. (Pen. Code, § 647, subd. (j)(4)(C).)

16) States that the invasion of privacy provisions do not preclude punishment under any section of law providing for greater punishment. (Pen. Code, § 647, subd. (j)(5).)

FISCAL EFFECT: Unknown.

COMMENTS:

1) **Sponsor**: Volare

2) **Author's Statement**: According to the author, "California law mandates strong court oversight over the handling of highly sensitive child sexual abuse material. Under Penal Code Section 1054.10, courts, not individual attorneys, control the copying and dissemination of such material, and disclosure is tightly regulated. While child sexual abuse material is appropriately subject to explicit statutory safeguards, no parallel provision expressly requires similar court supervision when the material depicts or involves adult victims. As a result, safeguards may depend on prosecutorial discretion rather than consistent judicial oversight.

   "Further, survivors of sexual violence and privacy-based crimes may face a heightened risk of unnecessary copying, transmission, or dissemination of deeply personal material. This inconsistency undermines survivor privacy and public confidence in the justice system. SB 1056 extends a proven statutory framework currently applied to child sexual abuse material to similarly sensitive material involving adult survivors, while preserving defendants' rights to reasonable access necessary to prepare a defense."

3) **Criminal Discovery:** In 1963, the U.S. Supreme Court held that the constitutional principle of due process requires prosecutors to ensure the defense receives all evidence that is both favorable to the accused and material to their guilt or punishment. (*Brady v. Maryland* (hereafter *Brady*) (1963) 373 U.S. 831 87-88; *U.S. v. Bagley* (hereafter *Bagley*) (1985) 473 U.S. 667, 674-675.) For evidence to be considered favorable, it must help the defendant or hurt the prosecution, such as by impeaching the prosecutor's witness. (*In re Miranda* (2008) 43 Cal.4th 541, 575.) For evidence to be material, there must be a reasonable probability that disclosure of the evidence would have led to a different outcome in a proceeding. (*Turner v. U.S.* (2007) 137 S.Ct. 1885, 1893.) This duty imposed upon the prosecutor applies whether or not a defendant requests the evidence, and whether or not the prosecutor intentionally or inadvertently did not disclose the evidence. (*Brady, supra*, 373 U.S. at p. 87-88.) Such evidence is generally referred to as *Brady* evidence and failure to turn it over will result in a verdict being overturned. (*People v. Uribe* (2008) 162 Cal.App.4th 1457, 1482-83.)

   In 1990, California voters approved Proposition 115 (hereafter Prop 115), which, among other things, established a statutory framework of reciprocal discovery whereby both the prosecution and defense are required to turn over specified information and materials such as the names and addresses of witnesses that will be called to testify at trial, any real evidence, and any exculpatory evidence. (Pen. Code, § 1054 et seq.) Generally, discovery must be

given to opposing counsel as soon as possible but no later than 15 calendar days after they are requested. (Pen. Code, § 1054.5, subd. (b).)

Additionally, regardless of a request, the law requires discovery to be given to opposing counsel at least 30 calendar days before trial, unless good cause is shown why disclosure should be denied, restricted, or deferred. (Pen. Code, § 1054.7.) Failure to disclose evidence in accordance with the framework set out in Proposition 115 may lead to court sanctions such as contempt proceedings, limiting the testimony of a witness, continuing a matter, and informing the jury of any failure or refusal to timely disclose. (Pen. Code, § 1054.5, subd. (b).) However, a court may only prohibit the testimony of a witness when all other sanctions have been exhausted, and a court can never dismiss a charge unless it is required to do so by the Constitution of the U.S. (Pen. Code, § 1054.5, subd. (c).)

Defense attorneys have a duty to shield certain information from a client or their family, including a victim's or a witness' personal identifying information, unless authorized by a court. (Pen. Code, § 1054.2, subd. (a)(1).) If the defendant is acting as their own attorney, the court must "endeavor to protect the personal identifying information of a victim or witness by providing for contact only through a private investigator licensed by the Department of Consumer Affairs and appointed by the court or by imposing other reasonable restrictions, absent a showing of good cause as determined by the court." (Pen. Code, § 1054.2, subd. (b).)

Existing law includes the ability of prosecutors to seek a protective order for SEMAV and certainly, where the crime itself is recorded. In the case of Denise Huskins, her kidnapper recorded the sexual assaults. In any other case, a prosecutor would most certainly have moved for a protective order of any recordings, images, or voice as personal identifying information. "Personal identifying information" is defined in Penal Code section 530.55.[1] In what appears to be a terrible lapse in judgment, the prosecutor did not seek any limiting order on recorded evidence of the assaults.

The definition of "personal identifying information" includes "unique biometric data including fingerprint, facial scan identifiers, voiceprint, retina or iris image, or other unique physical representation." This includes an image of a person. While the offender in the Huskins case acted *pro se*, that does not mean the People could not obtain a protective order for the images at issue. In this case, the prosecutor not seeking a protective order and allowing the offender to keep the digital evidence of his crimes is beyond the pale.

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[1] "Personal identifying information" means any name, address, telephone number, health insurance number, taxpayer identification number, school identification number, state or federal driver's license, or identification number, social security number, place of employment, employee identification number, professional or occupational number, mother's maiden name, demand deposit account number, savings account number, checking account number, PIN (personal identification number) or password, United States Citizenship and Immigration Services-assigned number, government passport number, date of birth, unique biometric data including fingerprint, facial scan identifiers, voiceprint, retina or iris image, or other unique physical representation, unique electronic data including information identification number assigned to the person, address or routing code, telecommunication identifying information or access device, information contained in a birth or death certificate, or credit card number of an individual person, or an equivalent form of identification.

4) **Discovery Process for Child Sexual Abuse Material (CSAM):** A court in a case pertaining to CSAM is required to issue protective order. Given that many of the same discovery terms would apply, the court may look to cases on protective orders and discovery in cases involving CSAM. Penal Code section 1054.10 generally prohibits an attorney from disclosing copies of CSAM evidence unless the court expressly permits an attorney to do so, and then only upon a showing of good cause. This prohibition already prohibits a defense attorney from providing the defendant copies of child pornography unless the court gives express permission to do so. (Pen. Code, § 1054.10, subd. (a).)

   However, an attorney may disclose copies of CSAM evidence to a person employed by an attorney in a case or to a person appointed by the court to assist in preparation of the defendant's case if the copies are required for preparation. However, while copies may be provided to a third party for purposes of assisting with the case, an attorney cannot provide copies to the defendant without a showing of good cause.

   "Good cause" has several different meanings depending on the context. (See *In re Lucas* (2012) 53 Cal.4th 839, 849 ["It has long been recognized that '[t]he term 'good cause' is not susceptible of precise definition."].) However, in other criminal discovery matters, good cause generally means where a defendant is able to establish a "plausible factual foundation" for access to specific information. (*Warrick v. Superior Court (People)* (2005) 35 Cal.4th 1011, 1025 [defining "good cause" for obtaining peace officer personnel records pursuant to *Pitchess*].)

   This bill requires, following notice and opportunity to be heard, the court to issue a protective order where there is SEMAV. The terms and circumstances of the protective order are in the court's discretion.

5) **Argument in Support**: According to *Volare*, the bill's sponsor, "Volare is a survivor-centered organization dedicated to advancing policies that prevent gender-based violence, strengthen protections for victims, and promote a justice system that recognizes the long-term impact of trauma. We work closely with survivors, advocates, and policymakers to identify gaps in law and policy that leave victims vulnerable to continued harm. SB 1056 directly advances that mission by addressing a critical but often overlooked issue: the handling of sexually explicit evidence involving adult victims in criminal proceedings.

   "We know that the harms of sexual violence do not end when an assault is over. For many survivors, the continued existence, circulation, and exposure of sexually explicit images or videos can become an ongoing source of fear, humiliation, and trauma. When those materials become evidence in a criminal case, survivors should not have to choose between seeking justice and protecting their privacy and dignity.

   "SB 1056 was inspired by the experience of Denise Huskins and Aaron Quinn, whose story exposed a troubling reality: California lacks a clear legal framework for handling sexually explicit evidence involving adult victims. While state law recognizes the extraordinary sensitivity of child sexual abuse material and provides specific safeguards governing its handling, there are no comparable standards for material depicting adult victims—even when that material constitutes evidence of sexual assault, coercion, exploitation, or other serious crimes.

"This gap has real consequences. In the absence of clear rules, courts and parties are left to navigate some of the most sensitive evidence imaginable without consistent standards governing how that material should be identified, accessed, protected, or safeguarded from unnecessary dissemination. In an era where a single image or video can be copied, transmitted, manipulated, and shared instantly and indefinitely, the consequences of getting this wrong can be devastating for victims. SB 1056 fills this gap by creating a clear procedural framework for courts to identify protected material, issue and enforce protective orders, and prevent unnecessary copying, transmission, and dissemination. The bill recognizes that sexually explicit evidence involving adult victims presents unique privacy, safety, and dignity concerns and deserves the same thoughtful judicial oversight that California has provided in other contexts involving highly sensitive material.

"Most importantly, SB 1056 affirms a simple principle: survivors should not experience additional harm because the legal system lacks clear procedures for handling evidence of their victimization. No survivor should have to fear that images or recordings documenting one of the worst moments of their life could be unnecessarily circulated in the course of seeking justice. California has long been a leader in protecting victims and responding to emerging harms. SB 1056 continues that tradition by bringing our laws into alignment with the realities of the digital age and ensuring that survivors are treated with the dignity, respect, and protection they deserve."

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

7) **Related Legislation**: AB 528 (Alanis), would have added a new standard for disclosure of child pornography evidence at trial to require any material that constitutes child pornography to remain in the care, custody, or control of either a law enforcement agency, the prosecution, or the court and only allows for child pornography to be made reasonably available for inspection. AB 528 was held on suspense file in the Senate Committee on Appropriations.

8) **Prior Legislation**:

   a) AB 1831 (Berman), Chapter 926, Statutes of 2024, added to the definition of "obscene matter" and "matter," any "matter generated through AI" as it pertains to images of persons under the age of 18 engaged in sexual conduct, as specified.

   b) SB 926 (Wahab), Chapter 289, Statutes of 2024, created a new crime for a person to intentionally create and distribute any sexually explicit image of another identifiable person that was created in a manner that would cause a reasonable person to believe the image is an authentic image of the person depicted, under circumstances in which the person distributing the image knows or should know that distribution of the image will cause serious emotional distress, and the person depicted suffers that distress.

REGISTERED SUPPORT / OPPOSITION:

Support

Volare (Sponsor)
Arcadia Police Officers' Association

Brea Police Association
Burbank Police Officers' Association
California Association of Licensed Investigators
California Association of School Police Chiefs
California Coalition of School Safety Professionals
California District Attorneys Association
California Narcotic Officers' Association
California Reserve Peace Officers Association
California Sexual Assault Forensic Examiner Association
Claremont Police Officers Association
Corona Police Officers Association
Culver City Police Officers' Association
El Dorado County District Attorney's Office
Family Violence Appellate Project
Fullerton Police Officers' Association
Los Angeles County District Attorney's Office
Los Angeles School Police Management Association
Los Angeles School Police Officers Association
Murrieta Police Officers' Association
National Organization for Victim Advocacy (NOVA)
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

ACLU California Action
California Attorneys for Criminal Justice

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

Date of Hearing: June 30, 2026
Counsel: Ilan Zur

ASSEMBLY COMMITTEE ON PUBLIC SAFETY
Nick Schultz, Chair

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

SUMMARY: Limits the arrest authority of federal law enforcement officers, prohibits California law enforcement agencies (LEAs) from entering into interagency agreements with federal LEAs unless the agreement prohibits the California LEA from engaging in certain prohibited conduct, and prohibits California LEAs from using resources to assist operations executed by a federal LEA if the California LEA has information that the federal agency has engaged in specified conduct. Specifically, **this bill**:

1) Limits the arrest authority of federal law enforcement officers and criminal investigators (federal officers), as follows:

   a) Removes the authority of federal officers to exercise the powers of arrest of a peace officer for violations of state or local laws in specified circumstances, including in obedience to a warrant, without a warrant if the officer has probable cause the person committed a public offense in the officer's presence, a person has committed a felony or the officer has probable cause to believe they have committed a felony, or to take into custody a person with a specified mental health disorder,

   b) Removes the authority of federal officers to make arrests when they are engaged in the enforcement of federal criminal laws and exercise arrest powers only incidental to the performance of these duties.

   c) Narrows the authority of federal officers to make arrests when probable cause exists to believe that a public offense that involves immediate danger to persons or property has just occurred or is being committed, by permitting such arrests only when there is probable cause that an offense involves an immediate threat of great bodily injury.

   d) Clarifies that federal officers exercising arrest authority are subject to existing provisions of law requiring a private person who has made an arrest to take the person before a magistrate or deliver them to a peace officer, and prohibiting civil liability against a peace officer or federal officer acting within the scope of their duties, as specified.

   e) Removes the reference to federal officers having the powers of arrest *of a peace officer*, and specifies that federal officer arrest authority must be consistent with provisions of law prohibiting law enforcement officers from wearing facial coverings and requiring law enforcement officers to visibly display identification, as specified.

   f) States that specified provisions of law outlining the arrest authority of federal law enforcement officers do not affect the powers of federal officers when they are engaged

in the enforcement of federal criminal laws and exercising their federal arrest powers pursuant to the performance of those duties.

g) Removes the provision of law making duly authorized federal employees peace officers when they are engaged in enforcing applicable state or local laws on property owned or possessed by the U.S. government, or on any street, sidewalk, or property adjacent thereto, and with the written consent of the sheriff or the chief of police, respectively, in whose jurisdiction the property is situated, and if those employees comply with specified peace officer training requirements.

h) Modifies the arrest authority given to federal officers assisting California law enforcement officers in carrying out emergency operations, as follows:

i) Limits this arrest authority to when assistance is provided during emergency operations at the request of the Governor.

ii) States that provisions of law prohibiting law enforcement officers from wearing facial coverings and requiring officers to display identification apply in these instances.

2) Prohibits, except as required by federal or state law, a California LEA from entering into an interagency agreement unless the agreement is in writing and expressly provides that any California LEA party to the agreement shall not engage in the following conduct:

a) Racial or identity profiling, as defined and prohibited.

b) Investigation, arrest, use of force, or imposition of civil or criminal liability or other penalties upon a person or entity based on constitutionally protected expressive conduct, including, but not limited to, either of the following:

i) Requests made by federal authorities or other out-of-state authorities to obtain data or conduct surveillance or investigation in furtherance of the objectives in the September 26, 2025, National Security Presidential Memorandum No. 7, including, pursuant to a joint law enforcement task force request or agreement made in furtherance of the objectives of that memorandum.

ii) Deployment of kinetic energy projectiles and chemical agents against an assembly, protest, or demonstration that does not meet the requirements of existing restrictions on the use of kinetic energy projectiles and chemical agents, including that such projectiles only be deployed by a peace officer who has completed certain training and that de-escalation techniques or other alternatives were attempted and failed.

c) Use, deployment, or acquisition of military equipment that has not been authorized by a military equipment use policy, as specified (hereafter, prohibited interagency conduct).

3) Prohibits an interagency agreement from exceeding four years in duration and permits the agreement to be renewed upon the creation of a new written instrument.

4) Prohibits, except as required by federal or state law, a California LEA from using agency or departmental resources or personnel to assist an operation executed in whole, or in part, by a

federal or out-of-state LEA when it has information that a federal or out-of-state LEA has engaged in, or intends to engage in, investigation, use of force, or imposition of penalties based on constitutionally protected expressive conduct, as specified, in that operation.

5) States that an interagency agreement in existence on January 1, 2027, is presumptively valid and may remain in effect until July 1, 2027, and on or before July 1, 2027, the interagency agreement shall be amended to include the restrictions on prohibited interagency conduct.

6) States that an agreement that does not expressly include the limitations on prohibited interagency conduct is contrary to law and public policy, and is void and unenforceable.

7) Makes any of the following a violation of this bill:

   a) The California LEA has engaged in prohibited interagency conduct under the auspices of an interagency agreement.

   b) The California LEA did not otherwise comply with the requirements of this bill.

8) Defines the following terms:

   a) "California law enforcement agency" means a police department, including the police department of a transit agency, school district, or specified higher education institutions, a sheriff's department, a district attorney's office, a county probation department, and any other LEA, department, or other entity of the state or any political subdivision thereof that employs any peace officer.

   b) "Interagency agreement" means an agreement or memorandum of understanding between a California LEA and a federal LEA or other out-of-state LEA for criminal law enforcement, including, but not limited to, a mutual aid agreement. This does not include individual or informal communications or consultations between a California LEA and a federal or out-of-state agency.

   c) "Constitutionally protected expressive conduct" means activities protected by the First Amendment of the United States (U.S.) Constitution or provisions of the California Constitution establishing rights to life and liberty, acquiring property, pursuing safety, happiness and privacy, rights related to reproductive freedom, speech, press, assembly, and religion, including, but not limited to:1) assembly; 2) petitioning; 3) speech; 4) expression of political and religious opinions; 4) recording government officials engaged in their duties in public places; and 4) publication of opinions or recordings.

   d) "Joint law enforcement task force" means at least one California LEA collaborating, engaging, or partnering with at least one federal or other out-of-state LEA in investigating a violation of federal or state crimes, including, but not limited to, the U.S. Department of Homeland Security task forces established by Executive Order 14159, dated January 20, 2025, the Federal Bureau of Investigation Joint Terrorism Task Forces referenced in the September 26, 2025, National Security Presidential Memorandum No. 7, and the temporary Immigration and Customs Enforcement Protection task forces established by the Attorney General memorandum dated September 29, 2025.

e) "Assist" or "assists" includes, but is not limited to, providing personnel for backup or perimeter control.

9) States that the provisions of this bill restricting federal and state LEA agreements and cooperation do not prohibit or restrict any governmental entity or official from sending to, or receiving from, federal immigration authorities, information regarding the citizenship or immigration status, lawful or unlawful, of an individual, or from requesting from federal immigration authorities, immigration status information, lawful or unlawful, of an individual, or maintaining or exchanging that information with any other federal, state, or local governmental entity, as specified.

10) Includes a severability clause, makes specified findings and declarations, and makes technical clarifying changes.

EXISTING STATE LAW:

1) Authorizes a peace officer to arrest a person in obedience to a warrant, or, pursuant to their peace officer authority, without a warrant, if: 1) the officer has probable cause to believe the person to be arrested has committed a public offense in the officer's presence; 2) the person arrested has committed a felony, although not in the officer's presence; and 3) the officer has probable cause to believe that the person to be arrested has committed a felony, whether or not a felony, in fact, has been committed. (Pen. Code, § 836, subd. (a).)

2) Outlines the arrest of federal law enforcement officers, as follows:

a) States that federal officers are not California peace officers, but may exercise the arrest powers of a peace officer in the following circumstances:

i) In obedience to a warrant, or without a warrant if the officer has probable cause the person committed a public offense in the officer's presence, the person arrested has committed a felony, or the officer has probable cause to believe they have committed a felony, or to take into custody a person with a mental health disorder, for violations of state or local laws.

ii) When federal officers are engaged in the enforcement of federal criminal laws and exercise the arrest powers only incidental to the performance of these duties.

iii) When requested by a California LEA to be involved in a joint task force or criminal investigation.

iv) When probable cause exists that an offense involving immediate danger to persons or property has occurred or is being committed. (Pen. Code, § 830.8, subd. (a)(1)-(4).)

b) States that provisions of law requiring a private person who has made an arrest to take the person before a magistrate or deliver them to a peace officer, and prohibiting specified civil liability against a peace officer or federal officer acting within the scope of their duties, apply in all of the above instances. (Pen. Code, §§ 830.8, subd. (a); 847.)

c) Requires federal officers, before exercising arrest powers, to have been certified by their agency as having satisfied Commission on Peace Officer Standards and Training (POST) training requirements, or the equivalent thereof. (Pen. Code, § 830.8, subd. (a).)

d) States that duly authorized federal employees who comply with specified POST training requirements are peace officers when they are engaged in enforcing applicable state or local laws on property owned by the U.S. government, or specified adjacent property, and with the written consent of the sheriff or the chief of police, respectively, in whose jurisdiction the property is situated. (Pen. Code, § 830.8, subd. (b).)

e) States that national park rangers are not California peace officers but may exercise arrest authority for violations of state or local laws, provided these rangers are exercising the arrest powers incidental to the performance of their federal duties or providing law enforcement services in response to a request initiated by California state park rangers to assist in preserving the peace and protecting state parks. (Pen. Code, § 830.8, subd. (c).)

f) States that during a state of war emergency or a state of emergency, federal officers who are assisting California law enforcement officers in carrying out emergency operations are not peace officers, but may exercise specified peace officer arrest authority for violations of state or local laws, as specified. (Pen. Code, § 830.8, subd. (d).)

3) Establishes the California Values Act, which prohibits LEAs from using agency or department money or personnel to investigate, detain, or arrest persons for immigration enforcement purposes, subject to specified exemptions. (Gov. Code, §§ 7282.5, 7284.6.)

4) States that the Values Act does not prevent a California LEA from conducting enforcement or investigative duties associated with a joint law enforcement task force, including the sharing of confidential information with other LEAs for purposes of task force investigations, if doing so would not violate the policy of the LEA or any local law or policy of the jurisdiction the agency is operating, and the following conditions are met:

a) The primary purpose of the joint law enforcement task force is not immigration enforcement, as defined.

b) The enforcement or investigative duties are primarily related to a violation of state or federal law unrelated to immigration enforcement.

c) Participation in the task force by a California LEA does not violate any local law or policy to which it is otherwise subject. (Gov. Code, § 7284.6, subd. (b)(3).)

5) Creates a cause of action against any person who, whether or not acting under color of law, interferes by threat, intimidation, or coercion with the exercise of rights secured by the Constitution or laws of the U.S. or of California, as specified. (Civ. Code, § 52.1, subd. (a).)

6) Prohibits a peace officer from engaging in racial or identity profiling, and requires that the course of basic training for peace officers include adequate instruction on racial, identity, and cultural diversity, as specified. (Pen. Code, § 13519.4, subds. (b) & (f).)

7) Prohibits any LEA from using kinetic energy projectiles and chemical agents to disperse any assembly, protest, or demonstration, except as specified. (Pen. Code, § 13652, subd. (a).)

8) Provides that kinetic energy projectiles and chemical agents shall only be deployed by a peace officer who has received POST training on their proper use for crowd control if the use if objectively reasonable to defend against a threat to life or serious bodily injury or to bring an objectively dangerous and unlawful situation safely and effectively under control, and only in accordance with certain requirements, including that de-escalation techniques were attempted and failed. (Pen. Code, § 13652, subd. (b).)

9) Requires an LEA to obtain approval of the governing body, by ordinance adopting a military equipment use policy, before requesting military equipment, acquiring military equipment, or collaborating with another LEA in the deployment or use of military equipment, as specified. (Gov. Code, § 7071, subd. (a).)

10) States 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 they have the right to be, does not constitute, in and of itself, a violation of willfully resisting, delaying or obstructing a public officer in the discharge of their duties, nor does it constitute reasonable suspicion to detain the person or probable cause to arrest the person. (Pen. Code, § 148, subd. (g).)

FISCAL EFFECT: Unknown.

COMMENTS:

1) **Sponsors**: ACLU California Action, Coalition for Humane Immigrant Rights (CHIRLA).

2) **Author's Statement**: According to the author, "SB 1105, the Protect CA Rights Act, prohibits local and state law enforcement from assisting federal agents in operations that involve racial or identity profiling, the criminalization of protected speech, or the use of unauthorized military-style weapons against Californians.

   "Californians have rights — and it is our duty to protect them. Existing California law already prohibits racial profiling, and our Constitution guarantees the right to peacefully assemble without being met with militarized responses.

   "But the Federal Administration is attempting to erode those rights in real time. Through their words, actions, and executive orders, the Federal Administration has made clear that its enforcement campaign extends beyond undocumented immigrants. Across California, we are increasingly seeing federal agents rely on local law enforcement to facilitate their operations. ICE has called upon local police to block legal observers and rapid responders from documenting enforcement actions, creating barriers that limit public visibility into federal immigration operations. While such actions may not violate existing law, since local officers are not the ones carrying out immigration arrests, they are still providing operational support to ICE.

   "American citizens who speak out against ICE have been targeted, and minority communities are being scrutinized regardless of immigration status. This bill makes one thing clear:

California's law enforcement resources cannot be used to undermine California law or constitutional rights."

3) **Background:** Since his return to office in 2025, President Trump has taken steps toward effectuating his large-scale anti-immigration agenda and retaliating against his political opponents. His administration's "whole-of-government" approach – which involves enlisting nearly every major Cabinet-level agency in enforcement efforts – has redirected federal resources toward immigration and away from other priorities.[1] To meet its immigration detention and deportation objectives, the Trump Administration has also employed a range of arcane or little-used legal tools, such as invoking the Alien Enemies Act of 1798 and so-called "287(g) agreements," which effectively deputize local police for immigration enforcement.[2] As of February 13, 2026, Immigration and Customs Enforcement (ICE) reported 1,412 active agreements across 40 states and territories, though none in California, which has long prohibited its state and local agencies from entering such agreements.[3]

President Trump has also directed top law enforcement officials in his government to pursue investigations and prosecutions of his political opponents,[4] including pursuant to a presidential memorandum nominally aimed at "countering domestic terrorism and organized political violence."[5] This memorandum (hereinafter "NSPM-7") alleges that the driving force behind such nefarious enterprises is the "anti-fascist" movement, which:

> [P]ortray foundational American principles (e.g., support for law enforcement and border control) as "fascist" to justify and encourage acts of violent revolution. This "anti-fascist" lie has become the organizing rallying cry used by domestic terrorists to wage a violent assault against democratic institutions, constitutional rights, and fundamental American liberties. Common threads animating this violent conduct include anti-Americanism, anti-capitalism, and anti-Christianity; support for the overthrow of the United States Government; extremism on migration, race, and gender; and hostility towards those who hold traditional American views on family, religion, and morality.[6]

NSPM-7 directs law enforcement to "disband and uproot networks, entities, and organizations that promote organized violence, violent intimidation, conspiracies against

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[1] Rebecca Santana, *In the Trump administration, nearly every major department is an immigration agency*, Associated Press (Feb. 20 2025) <https://apnews.com/article/immigration-border-enforcement-trump-rubio-bondi-hegseth-fb0c2a5351334f4615706033b820bf92> [as of June 23, 2026].
[2] Abbie VanSickle, *Supreme Court Retains Block on Using Wartime Law to Deport Venezuelans*, New York Times (May 16, 2025) <https://www.nytimes.com/2025/05/16/us/politics/supreme-court-alien-enemies-act-deportations.html?searchResultPosition=2> [as of June 23, 2026]; Jaclyn Diaz and Connie Hanzhang Jin, *Little-used ICE agreements with local police have exploded under Trump*, National Public Radio (Feb. 17, 2026) <https://www.npr.org/2026/02/17/nx-s1-5707449/local-police-immigration-cooperation-287g> [as of June 23, 2026].
[3] Diaz and Jin, *supra*; American Civil Liberties Union, *Deputized for Disaster: How President Trump's 287(g) Deportation Force is a Powder Keg for our Communities* (2026), at p. 33 <https://assets.aclu.org/live/uploads/2026/02/Deputized-for-Disaster_260227.pdf> [as of June 23, 2026].
[4] Protect Democracy, *Tracking retaliatory use of arrests, prosecutions, and investigations by the Trump administration* (June 16, 2026) <https://protectdemocracy.org/work/retaliatory-action-tracker/> [as of June 23, 2026].
[5] The White House, *Countering Domestic Terrorism and Organized Political Violence*: *National Security Presidential Memorandum 7* (NSPM-7) (Sept. 25, 2025) <https://www.whitehouse.gov/presidential-actions/2025/09/countering-domestic-terrorism-and-organized-political-violence/> [as of June 23, 2026].
[6] *Ibid.*

rights, and other efforts to disrupt the functioning of a democratic society."[7] It also directs the National Joint Terrorism Task Force and its local offices to "coordinate and supervise a comprehensive national strategy to investigate, prosecute, and disrupt entities and individuals engaged in acts of political violence and intimidation designed to suppress lawful political activity or obstruct the rule of law," and requires investigation of federal crimes relating to acts of recruiting or radicalizing persons for political violence, terrorism, conspiracy against rights, and violent deprivation of any citizen's rights.[8] Among other things, it requires the U.S. Attorney General to issue specific guidance to ensure that domestic terrorism priorities include politically motivated terrorist acts such as organized doxing, swatting, rioting, looting, trespass, assault, destruction of property, threats of violence, and civil disorder.[9] In response to the memorandum, over 3,000 nonprofit organizations, including the sponsor of this bill, signed an open letter condemning NSPM-7 as an unjust attempt to silence political dissent.[10] It is against this backdrop that the author proposes this measure.

4) **Effect of this Bill:**

a) Removal of Federal Law Enforcement Officer Arrest Authority:

The Tenth Amendment to the United States Constitution provides that "the powers not delegated to the United States by the Constitution, nor prohibited by it to the states, are reserved to the states respectively, or to the people." (U.S. Const., 10th Amend.) Among these powers reserved to the states is the "police power," which traditionally has been defined as the authority to define the criminal law and to provide for the public health, safety, morals, and welfare. (*Berman v. Parker* (1954) 348 U.S. 26, 32-33; *Gonzales v. Raich* (2005) 545 U.S. 1, 42; (*Tenn. Wine & Spirits Retailers Ass'n v. Thomas* (2019) 588 U.S. 504, 521.) It is well-established that the "states are independent sovereigns possessing inherent police power to criminally punish conduct inimical to the public welfare, even when that same conduct is also prohibited under federal law," and that "foremost among the prerogatives of sovereignty is the power to create and enforce a criminal law." (*In re Jose C.* (2009) 45 Cal.4th 534, 544; *Heath v. Alabama* (1985) 474 U.S. 82, 93.) Indeed, "even though federal law may authorize federal agents to act as state peace officers, each state retains the ability to limit the involvement of federal law enforcement in administering that state's criminal laws." (*United States v. Artis* (2018) 315 F.Supp.3d 1142, 1146.)

California is one such state that has enacted limits on the extent to which federal criminal law enforcement officers may enforce the state's criminal laws. Under Penal Code section 830.8, federal officers are not California peace officers, but may exercise the powers of arrest of a peace officer in limited circumstances. These circumstances primarily include when federal officers are engaged in the enforcement of federal criminal laws and exercise arrest powers incidental to federal duties, when requested by a California LEA to be involved in a joint task force or investigation, and when probable cause exists to believe that a public offense that involves immediate danger to persons or property has just occurred or is being committed. (Pen. Code, § 830.8, subd. (a)(2)-(4).) More generally, federal officers may make arrests for

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[7] *Ibid.*
[8] *Ibid.*
[9] *Ibid.*
[10] *An Open Letter Rejecting Presidential Attacks on Nonprofit Organizations* <https://fb1cd5ab-5a51-475c-87d1-10904a61146d.usrfiles.com/ugd/fb1cd5_408d23ef7c0b4243b9cdd3e9cf926b6a.pdf> [as of June 23, 2026].

violations of state or local laws if the arrest is in obedience to a warrant, or without a warrant if the officer has probable cause the person committed a public offense in the officer's presence, the person has committed a felony or the officer has probable cause to believe they have committed a felony, or to take into custody a person with a mental health disorder. (Pen. Code, § 830.8, subd. (a)(1).)

Before exercising these powers, federal officers must be certified by their agency heads as having satisfied specified POST training requirements, or the equivalent thereof. (Pen. Code, § 830.8, subd. (a).) Duly authorized federal employees additionally may enforce state or local laws on U.S. government property, or adjacent property, as specified, with written consent from a police chief or sheriff. (Pen. Code, § 830.8, subd. (b).) Other provisions set forth narrower circumstances under which national park rangers may exercise state arrest authority, and permit federal officers to exercise arrest authority when assisting California law enforcement during states of emergency. (Pen. Code, § 830.8, subds. (c)-(d).)

This bill limits the arrest authority given to federal officers under Penal Code 832.8 in several ways. First, and most impactfully, it repeals several existing statutory basis for federal officers to make arrests in California, including the arrest authority that applies: 1) for violations of state or local laws more generally, including the ability to make specified warrantless arrests; 2) when engaged in the enforcement of federal criminal laws and the arrest is incidental to the performance of these duties; and 3) when federal officers are engaged in enforcing applicable state or local laws on property owned by the U.S. government with written consent from local law enforcement, as specified.

Second, it narrows the arrest authority of federal officers during scenarios of immediate danger. Currently, federal officers may make arrests when they have probable cause to believe that a public offense that involves immediate danger to persons or property has just occurred or is being committed. (Pen. Code, § 830.8, subd. (a)(4).) This bill limits this authority to only when there is danger to persons, rather than property, by permitting such arrests only when there is probable cause that a public offense involves an immediate threat of great bodily injury.

Under this bill, the above arrest authority must be consistent with existing prohibitions against law enforcement officers wearing specified facial coverings and requiring law enforcement officers to visibly display identification, as specified. The bill also states that these restrictions do not affect the powers of federal officers when they are engaged in the enforcement of federal criminal laws and exercising their federal arrest powers pursuant to the performance of those duties. Among other changes, it also modifies the arrest authority currently given to federal officers when assisting California law enforcement officers in emergency operations by only permitting such federal officers to make arrests when assistance is provided during emergency operations at the request of the Governor.

This may limit the degree to which federal law enforcement officers may make arrests beyond those authorized by their federal enforcement duties. On one hand, this may prevent aggressive federal law enforcement officers, such as those we have seen related to immigration enforcement, from being able to point to California law to justify arrests indirectly related to immigration enforcement (e.g., an arrest of a protester recording an immigration enforcement action for an alleged assault). Currently, California gives federal officers the authority to make arrests incidental to the performance of their federal

enforcement duties, as well as the authority to make warrantless arrests for violations of state or local law, if, for example, the officer has probable cause to believe that the person committed an offense in that officer's presence. (Pen. Code, § 836, subd. (a)(1)-(2).) This bill removes such a statutory basis for federal officers to make arrests, while clarifying that this does not impact the authority of federal officers to make arrests when they are engaged in the enforcement of federal criminal laws.

On the other hand, this may broadly limit the degree to which federal law enforcement officers can make arrests for crimes under California law. If a federal law enforcement officer stationed in California witnesses a crime (e.g., an assault, theft, act of domestic violence, disturbing the peace, etc.) in the course of their duties, and their only basis for arrest is the statutory authority given to the officer under Penal Code 832.8, this bill's removal of state arrest authority may lead to a situation in which a federal officer observes a crime but is unable to arrest the perpetrator.

b) Restrictions on Collaboration with Federal or Out-of-State Law Enforcement Agencies

Existing law limits the degree to which California LEAs may participate in joint law enforcement task forces relating to immigration enforcement. In 2017, California enacted SB 54 (DeLeón), Chapter 134, Statutes of 2017, the Values Act, which generally prohibited 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.) The Values Act established specific conditions related to participating in joint law enforcement task forces. Under these provisions, an LEA may conduct enforcement or investigative duties associated with a joint law enforcement task force only if doing so would not violate the policy of the LEA or any local law or policy. (Gov. Code, § 7284.6, subd. (b).) Further, the primary purpose of the joint law enforcement task force cannot be immigration enforcement, the enforcement or investigative duties must be primarily related to a violation of law unrelated to immigration enforcement, and participation in the task force by a California LEA cannot violate any local law or policy to which it is otherwise subject. (Gov. Code, § 7284.6, subd. (b)(3).)

This bill places new restrictions on the degree to which California LEAs may collaborate with federal or out-of-state LEAs. It does so in two primary ways.

First, it prohibits a California LEA from entering into an interagency agreement unless the agreement is in writing and expressly provides that a California LEA that is a party to the agreement shall not engage in certain prohibited conduct.

An interagency agreement is defined to mean an agreement or memorandum of understanding between a California LEA and a federal or other out-of-state LEA for criminal law enforcement, including, but not limited to, a mutual aid agreement. The bill prohibits such an agreement from exceeding four years, requires these express limitations to be included in interagency agreements by July 1, 2027, and states that an agreement that does not include these limitations by this time is void and unenforceable.

Specifically, the agreement must prohibit a California LEA from engaging in racial or identity profiling. Racial or identity profiling is already prohibited under California law; accordingly, this prohibition is largely declaratory of existing peace officer obligations. (Pen.

Code, § 13519.4, subd. (f).) Additionally, the agreement must prohibit the California LEA from using, deploying, or acquiring unauthorized military equipment. Existing law already requires an LEA to obtain approval from the applicable governing body prior to acquiring military equipment or collaborating with another LEA in the deployment or use of military equipment, as specified. (Gov. Code, § 7071, subd. (a).) Accordingly, this prohibition similarly appears to be consistent with existing obligations on California LEAs.

The agreement must also prohibit a California LEA from investigating, arresting, using force, or imposing civil or criminal liability or other penalties upon a person or entity based on "constitutionally protected expressive conduct." The bill states that this prohibition includes but is not limited to: 1) deployment of kinetic energy projectiles and chemical agents against an assembly, protest, or demonstration in violation of existing restrictions of such kinetic projectiles; and 2) "[r]equests made by federal authorities or other out-of-state authorities to obtain data or conduct surveillance or investigation in furtherance of the objectives in [NSPM-7], including, pursuant to a joint law enforcement task force request or agreement made in furtherance of the objectives of that memorandum." The reference to a "joint law enforcement task force" is defined to mean least one California LEA collaborating, engaging, or partnering with at least one federal or other out-of-state LEA in investigating a violation of federal or state crimes, including, but not limited to, the United States Department of Homeland Security task forces established by Executive Order 14159, dated January 20, 2025, the Federal Bureau of Investigation Joint Terrorism Task Forces referenced in NSPM-7 and the temporary Immigration and Customs Enforcement Protection task forces established by the Attorney General memorandum dated September 29, 2025.

Similar to the prohibitions against racial profiling and unauthorized use of military equipment, existing law already prohibits an LEA from using kinetic energy projectiles and chemical agents to disperse any assembly, protest, or demonstration, unless certain conditions are met. (Pen. Code, § 13652, subds. (a) & (b).) However, the requirement that the agreement include a prohibition against imposing criminal penalties upon a person based on constitutionally expressive conduct, including, but not limited to, requests made by federal authorities to engage in certain actions in furtherance of the objectives in NSPM-7, raises several practical concerns. The prohibition against taking certain enforcement actions "based on" constitutionally protected expressive conduct could be interpreted to encompass unlawful conduct that occurred during protected expressive conduct. For example, it is unclear if this would prohibit a California LEA from arresting a person at a protest who, while protesting, engages in unlawful behavior such as inciting violence, throwing a rock at a peace officer, or assaulting a counter-protester, while concurrently engaging in protected free speech conduct. The author may wish to clarify this restriction on imposing penalties "based on" protected expressive conduct to ensure this does not errantly restrict enforcement against unlawful behavior.

Further, the meaning of this provision, and the use of the phrase "including but not limited to", following the prohibition against imposing penalties based on constitutional conduct, is somewhat unclear. It is uncertain if the bill is stating that a request by a federal authority to obtain data or conduct an investigation in furtherance of NSPM-7 is sufficient to establish a violation of the prohibition against imposing penalties based on protected conduct, or if a California LEA would be required to respond to this request to trigger this prohibition.

Additionally, the author may also wish to remove the reference to "in furtherance of the objectives in [NSPM-7]". As previously noted, NSPM-7 directed law enforcement to engage in a variety of conduct, including to disband entities that promote organized violence, violent intimidation, conspiracy against rights, and other efforts to disrupt the functioning of a democratic society, to investigate political violence and terrorism, and to ensure that domestic terrorism priorities include politically motivated terrorist acts such as organized doxing, swatting, rioting, looting, trespass, assault, destruction of property, threats of violence, and civil disorder.[11] While NSPM-7 pointed to "anti-fascism" as a unifying factor behind the memo, it also directs investigation and prosecution into vague and broadly defined activities such as "organized violence" and "efforts to disrupt the functioning of a democratic society." Given the numerous and undefined criminal topics discussed in NSPM-7, and the fact that it is an informal memorandum, rather than a defined prohibition contained within a California statute, it may be difficult for California LEAs to determine what types of activities are "in furtherance of the objectives" of NSPM-7. Such a lack of clarity could disincentivize the creation of interagency agreements.
Second, the bill prohibits a California LEA from using agency or departmental resources or personnel to assist an operation executed by a federal or out-of-state LEA when it has information that the agency has engaged in, or intends to engage in, investigation, arrest, use of force, or imposition of civil or criminal liability or other penalties based on constitutionally protected expressive conduct in that operation. As previously noted, the imposition of penalties based on constitutionally expressive conduct includes requests made by federal authorities to conduct surveillance or investigation in furtherance of the objectives of NSPM-7, as well as non-compliance with the deployment of kinetic energy projectiles.

This provision also raises several practical questions. As previously referenced, it may not always be clear what types of activities are "in furtherance of the objectives of [NSPM-7.] Accordingly, this provision contains the same ambiguity and feasibility concerns identified above. Additionally, this prohibition against imposing penalties based on protected conduct includes non-compliant use of kinetic energy projectiles under California law. However, currently, the conditions governing when kinetic projectiles and chemical agents may be used only apply to California peace officers. (Pen. Code, § 13652, subds. (b).)[12] Federal law enforcement officers may be subject to different use-of-force standards pertaining to the use of kinetic projectiles. It may not be prudent to prohibit California LEAs from using resources in a joint operation based on a federal officer's use of kinetic projectiles if California's restrictions on the use of kinetic projectiles don't apply to such federal officers.

Further, the prohibition against a California LEA using resources to assist in a joint operation, "when it has information" that the federal agency has engaged in prohibited conduct, could use additional clarification. It is unclear what type of information would be sufficient to trigger a California LEA to remove its personnel from an operation. This could be broadly interpreted to encompass informal conversations between inter-agency law enforcement officers about certain conduct, or could be narrowly interpreted to require a formal determination of prohibited conduct (e.g., the discipline of a federal officer for using excessive force against a peaceful protestor). The author may wish to clarify what type of

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[11] The White House, *supra*.
[12] A related bill, SB 937 (Gonzalez) of the 2025-2026 Legislative Session, seeks to expand the rules governing the use of kinetics to federal law enforcement agencies.

information is sufficient to trigger this provision of the bill or otherwise remove this provision.

Finally, the author may wish to clarify the scope and meaning of the term "operation" and how this resource prohibition would apply during lengthy and multi-jurisdictional joint state and federal operations The bill prohibits a California LEA from using resources to assist in an "operation" if they have information that the federal or out-of-state LEA engaged in or will engage in certain prohibited conduct "in that operation." In the context of a multi-year, multi-jurisdictional investigation into an organized criminal network, a discovery of prohibited activity during a particular enforcement action that took place outside California could arguably require the withdrawal of California LEA personnel and resources for the remainder of the operation. The scope of this prohibition may depend upon how narrowly or broadly a given California LEA interprets the term "operation."

5) **Argument in Support**: According to *ACLU California Action* and the *CHIRLA,* the sponsors of this bill, SB 1105, "will ensure that our tax dollars and our police personnel time are not wasted on the Trump Administration's efforts to racially profile or silence Californians. It is time to close the door on the Trump administration using California law enforcement to harass the communities local law enforcement is sworn to protect…

"Trump is augmenting his campaign against our freedoms by trying to commandeer local and state police to implement his agenda. The Legislature must not allow this Administration to pull local and state resources away from California priorities in service of Trump's disruptive agenda…

"Unfortunately, our law enforcement agencies have also been diverted to serve Trump's political agenda. Over the past year, local police from multiple jurisdictions and state police from the California Highway Patrol have frequently responded to calls from federal agents that result in legal observers being stopped for First Amendment activity. Moreover, local law enforcement, such as LAPD, have set up perimeters for ICE while federal agents perform immigration raids and brutalize people documenting and protesting those raids.

"Beyond unnecessarily straining local law enforcement resources, the administration's push to blur the lines between local and federal law enforcement has eroded community trust in their local police departments. When people fear law enforcement, they are less likely to report crimes, seek help, or cooperate with police. Collaboration between local law enforcement and ICE fuels distrust and interferes with helping victims and survivors.

"Notably, the Protect California Rights Act does not increase liability for individual officers. Rather, it ensures that California law enforcement agencies adopt sufficient policies to protect their resources and personnel from federal overreach that violates Californians' rights. By doing so, it also prevents California officers from being pulled into unlawful conduct for which they could be held liable under existing law. Most importantly, SB 1105 protects our limited resources, so they are used to serve our state's values and priorities, not to silence Californians and fuel a racially discriminatory deportation force."

6) **Argument in Opposition**: According to the *Association for Los Angeles Deputy Sheriffs (ALADS)*, "SB 1105 would significantly limit the ability of California law enforcement agencies to participate in collaborative public safety efforts that are essential to combating

serious criminal activity. Although the bill is framed around concerns regarding federal enforcement actions, its provisions reach far beyond immigration matters and threaten a wide range of longstanding partnerships between local, state, and federal agencies.

"The bill establishes restrictions that could effectively prevent local agencies from participating in joint operations based solely on the possibility that a federal partner may engage in conduct prohibited by the measure. This standard places local agencies in the difficult position of evaluating the actions of partner agencies and predicting potential future conduct, rather than focusing on their own responsibilities and public safety missions. Such a framework creates uncertainty and may discourage agencies from participating in otherwise lawful and productive collaborative efforts.

"SB 1105 also defines prohibited assistance so broadly that routine law enforcement functions could be called into question. Activities such as information sharing, operational planning, communications support, scene security, and officer safety coordination are fundamental components of multi-agency operations. Restricting these activities would make it more difficult for agencies to work together effectively and safely when addressing complex criminal investigations.

"These partnerships are critical to efforts targeting violent gangs, transnational criminal organizations, human trafficking networks, narcotics trafficking, child exploitation, cybercrime, and dangerous fugitives. Successful task force operations depend upon cooperation and coordination among agencies with different authorities, expertise, and resources. Limiting that cooperation risks weakening investigations and reducing the effectiveness of public safety operations throughout California."

7) **Related Legislation:** SB 937 (Gonzalez), among other things, expands existing prohibitions against the use of kinetic energy projectiles and chemical agents to federal law enforcement agencies. SB 937 is pending a hearing in the Assembly Appropriations Committee.

8) **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 LEA operating in California to maintain and publicly post a written policy limiting the use of facial coverings, as specified.

   b) AB 421 (Solache), of the 2025-2026 Legislative Session, would have prohibited LEAs from collaborating with immigration authorities regarding immigration enforcement actions when the actions are taking place within a radius of one mile of a childcare or daycare facility, a religious institution or place of worship, or a hospital or medical office. The hearing on AB 421 was cancelled at the request of the author.

   c) SB 805 (Pérez), Chapter 126, Statutes of 2025, required LEAs 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.

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

REGISTERED SUPPORT / OPPOSITION:

Support

ACLU California Action
Alliance for Boys and Men of Color
Alliance of Californians for Community Empowerment (ACCE) Action
American Friends Service Committee
Asian Americans Advancing Justice Southern California
Asian Americans and Pacific Islanders for Civic Empowerment
California Attorneys for Criminal Justice
California Community Foundation
California Faculty Association
California Public Defenders Association
Chispa, a Project of Tides Advocacy
Coalition for Humane Immigrant Rights (CHIRLA)
Communities United for Restorative Youth Justice (CURYJ)
Community Legal Services in East Palo Alto
County of Orange, Second District Office of Supervisor Sarmiento
Courage California
Debt Free Justice California
Decrimsexworkca (DECRIMSWCA)
Democrats of Rossmoor
Ella Baker Center for Human Rights
Environmental Health Coaltion
Friends Committee on Legislation of California
Homeless United for Friendship and Freedom
Justice2jobs Coalition
LA Defensa
League of Women Voters of California
Local 148 Los Angeles County Public Defender's Union
Multi-faith Action Coalition
Peace and Justice Law Center
Pilipino Workers Center of Southern California
Privacy Defense Alliance
Public Counsel
Rubicon Programs
Santa Monica Democratic Club
Sister Warriors Freedom Coalition
Smart Justice California, a Project of Beyond Impact
Southeast Asia Resource Action Center (SEARAC)
The Gathering for Justice
Transitions Clinic Network
Women's March Action

Opposition

Arcadia Police Officers' Association
Association for Los Angeles 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 Indian Legal Services
California Narcotic Officers' Association
California Peace Officers' Association
California Police Chiefs Association
California Reserve Peace Officers Association
California State Sheriffs' Association
California Tribal Police Chiefs Association
Chief Probation Officers' of California (CPOC)
Claremont Police Officers Association
Corona Police Officers Association
Culver City Police Officers' Association
Fullerton Police Officers' Association
LA Habra: City of
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
Peace Officers Research Association of California (PORAC)
Placer County Deputy Sheriffs' Association
Pomona Police Officers' Association
Riverside Police Officers Association
Riverside Sheriffs' Association
7 Private Individuals

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

Date of Hearing: June 30, 2026
Counsel: Kimberly Horiuchi

ASSEMBLY COMMITTEE ON PUBLIC SAFETY
Nick Schultz, Chair

SB 1111 (Ashby) – As Amended March 23, 2026

SUMMARY: Expands the crime of false impersonation to include any use of a digital replica with the intent to impersonate another. Specifically, **this bill**:

1) Includes "digital replicas" in the prohibitions against the unauthorized commercial use of name, voice, signature, photograph, or likeness (referred to as "right of publicity").

2) Removes the rebuttable presumption from the right of publicity statute.

EXISTING LAW:

1) Provides that any person who knowingly and without consent credibly impersonates another actual person through or on a website or by other electronic means for purposes of harming, intimidating, threatening, or defrauding another person is guilty of a public offense punishable by a fine not exceeding $1,000 or by imprisonment in a county jail not exceeding one year, or by both that fine and imprisonment. (Pen. Code § 528.5, subd. (a) & (d).)

2) States that impersonation is credible if another person would reasonably believe, or did reasonably believe, that the defendant was or is the person who was impersonated. (Pen. Code § 528.5, subd. (b).)

3) Provides that every person who falsely personates another in either their private or official capacity, and in that assumed character carries out specified actions, is punishable by a fine not exceeding $10,000, imprisonment in a county jail not exceeding one year, or imprisonment in a county jail for 16 months, 2 or 3 years and/or a fine. (Pen. Code, § 529.)

4) Provides that every person who falsely personates another, in either their private or official capacity, and in such assumed character receives any money or property, knowing that it is intended to be delivered to the individual so personated, with intent to convert the same to their own use, or to that of another person, or to deprive the true owner thereof, is punishable in the same manner and to the same extent as for larceny of the money or property so received. (Pen. Code, § 530.)

5) Prohibits any person from knowingly using another's name, voice, signature, photograph, or likeness, in any manner, on or in products, merchandise, or goods, or for purposes of advertising or selling, or soliciting purchases of products, merchandise, goods, or services, without such person's prior consent, and may be liable for any damages sustained by the person or persons injured as a result thereof. (Civ. Code, § 3344, subd. (a).)

6) Defines "digital replica" to mean a computer-generated, highly realistic electronic representation that is readily identifiable as the voice or visual likeness of an individual that is embodied in a sound recording, image, audiovisual work, or transmission in which the actual individual either did not actually perform or appear, or the actual individual did perform or appear, but the fundamental character of the performance or appearance has been materially altered. Excludes electronic reproduction, use of a sample of one sound recording or audiovisual work into another, remixing, mastering, or digital remastering of a sound recording or audiovisual work authorized by the copyright holder from the definition. (Civ. Code, § 3344.1.)

7) Defines "artificial intelligence" to mean an engineered or machine-based system that varies in its level of autonomy and that can, for explicit or implicit objectives, infer from the input it receives how to generate outputs that can influence physical or virtual environments. (Civ. Code, § 3110, subd. (a).)

FISCAL EFFECT: Unknown.

COMMENTS:

1) **Sponsor**: 11:11 Media

2) **Author's Statement**: According to the author, "California is leading the nation in AI regulations. However, a significant gap remains. The lack of a comprehensive legal framework to address the non-consensual creation of AI deepfake images leaves victims with no remedy. While some deepfakes target public figures, AI software now allows users to create content featuring anyone. Often, women are the targeted victims, and the vast majority of incidents are sexually explicit in nature.

   "SB 1111 creates a framework to hold AI users accountable by establishing clear legal standing for victims and defining the boundaries of AI technology. As technology changes, California must continue to advance the standard for protections against AI violence and those affected by it."

3) **False Impersonation**: This bill expands the crimes of false impersonation to include conduct that relies on a digital replica. Penal Code section 528.5 punishes any person who knowingly and without consent credibly impersonates another actual person through or on an Internet Web site or by other electronic means for purposes of harming, intimidating, threatening, or defrauding another person. Penal Code section 529 punishes a person who falsely personates another in either his or her private or official capacity, and in that assumed character does any of the following: (a) becomes bail or surety for any party in any proceeding whatever, before any court or officer authorized to take that bail or surety; (b) verifies, publishes, acknowledges, or proves, in the name of another person, any written instrument, with intent that the same may be recorded, delivered, or used as true; or (c) does any other act whereby, if done by the person falsely personated, [they] might, in any event, become liable to any suit or prosecution, or to pay any sum of money, or to incur any charge, forfeiture, or penalty, or whereby any benefit might accrue to the party personating, or to any other person.

   An example of false personation would be a person who identified themselves to law enforcement as someone else for purposes of evading criminal liability. (See *People v.*

Chardon (1999) 77 Cal.App.4th 205.) Penal Code section 530 is false personation for purposes of stealing something of value. An example of this would be dressing up like a baggage handler to steal luggage or impersonating a long lost relative to obtain the victim's money. (*People v. Montalvo* (2019) 36 Cal.App.5th 597 [defendant dressed up like a police officer to effectuate a robbery].) This bill expands these offenses to include a person who engages in false personation via a digital replica.

4) **Background on Artificial Intelligence (AI) Issues**: Over the past five years, generative AI tools have made the jump from research prototype to commercial product. Generative AI models like OpenAI's ChatGPT and Google's Gemini can now generate realistic text and images that are often indistinguishable from human-authored content, with generative AI for audio and video not far behind.

Given these advances, it is not surprising to see AI-generated images of public figures go viral or AI-generated reviews and comments on digital platforms. As such, generative AI models are raising concerns about the credibility of digital content and the ease of producing harmful content in the future. In an article published by the Brookings Institute, it is against the backdrop of technological advances, "civil society and policymakers have taken increasing interest in ways to distinguish AI-generated content from human-authored content."[1] The Brookings Institute goes on to explain that there are four suggested methods to determine if something is AI-generated[2]:

> There are several approaches that have been proposed for detecting AI-generated content. The four most prominent approaches are watermarking (in its various forms), which is the embedding of an identifiable pattern in a piece of content to track its origin; content provenance, which securely embeds and maintains information about the origin of the content in its metadata; retrieval-based detectors, where all AI-generated content is stored in a database that can be queried to check the origin of content; and post-hoc detectors, which rely on machine learning models to identify subtle but systematic patterns in AI-generated content that distinguish it from human-authored content.[3]

AI has created challenges for courts evaluating the admissibility, authenticity, and reliability of evidence. Realistic synthetic content, including deepfakes, AI-generated voice clones, and fabricated images, continues to appear in the courts, requiring courts to consider the reliability and fairness of generative AI material as evidence.

In May 2024, the Judicial Council established the AI Task Force to oversee the development of policy recommendations to the council on the use of AI in the judicial branch and coordinate the timely consideration and development of proposals and potential actions by

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[1] Siddarth Srinivasan, *Detecting AI fingerprints: A guide to watermarking and beyond* (January 4, 2024) Brookings Institution, located at https://www.brookings.edu/articles/detecting-ai-fingerprints-a-guide-to-watermarking-and-beyond/
[2] *Ibid.*
[3] *Ibid.*

the judicial branch. On February 21, 2025, the Taskforce provided a presentation to the courts wherein it provided a summary of AI usage in courts: 19 courts are already using generative AI; 19 courts plan to start using generative AI; seven courts did not respond to a request for information. Additionally, six courts have an AI use policy in place; 21 courts are planning to create a policy; and several courts are waiting for a model policy from Judicial Council. Proposed model language includes rejection of any discriminatory generative AI and requires disclosure or watermark if generative AI outputs make up a substantial portion of a written or visual work provided to the public.[4]

The Legislature passed AB 1836 (Bauer-Kahan), Chapter 258, Statutes of 2024, which prohibited a person from producing, distributing, or making available the digital replica of a deceased personality's voice or likeness in an expressive audiovisual work or sound recording without prior consent from specified persons, essentially the personality's heirs or their assignees. Damages to an injured party may be for an amount equal to the greater of $10,000 or the actual damages suffered by a person controlling the rights to the deceased personality's likeness.

5) **AI Impact on 6th Amendment Right of Confrontation:** As noted above, Judicial Council convened a task force on AI in courts and as evidence. However, the use of AI in criminal law may affect the defendant's right to a fair trial because it may limit the defendant's ability to cross-examine a witness. In *People v. Lopez* (2012) 55 Cal.4th 569, the California Supreme Court addressed the impact of machine learning (a rudimentary form of generative AI) in the generation of an expert's report.

First, the right of confrontation prohibits the prosecution from relying on "testimonial" out-of-court statements unless the witness is unavailable to testify and the defendant had a prior opportunity for cross-examination. (*People v. Lopez, supra*, at p. 576, citing *Crawford v. Washington* (2004) 541 U.S. 36.) A statement is "testimonial" if: (a) it is made … by or to a law enforcement agent and (b) describes a past fact related to criminal activity for (c) possible use at a later trial. Conversely, a statement that does not meet all three criteria is not testimonial. (*Id.*, at 577.)

Ultimately, the court in *Lopez* held that the portions of the expert's report that were generated by a form of machine learning was not testimonial.

> The critical portions of the non-testifying analyst's laboratory report were not made with the requisite degree of formality or solemnity to be considered testimonial. Although a laboratory assistant's notation on a chart linking defendant's name to a particular blood sample was admitted for its truth, it was not testimonial hearsay. The notation was nothing more than an informal record of data for internal purposes, as was indicated by a small printed statement near the top of the chart: "FOR LAB USE ONLY." Because the notation in the non-testifying analyst's laboratory report linking defendant's name to the blood

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[4] https://courts.ca.gov/advisory-body/artificial-intelligence-task-force

> sample was not testimonial in nature, the defendant's right of confrontation was not violated. (*Lopez, supra,* at 585.)

Courts will continue to apply the same 6th Amendment right of confrontation analysis for AI. If the properly watermarked and unbiased generative AI is considered testimonial, it will likely not be admissible unless the person who developed the generative AI material is present and available to testify.

6) **Veto of SB 11**: This bill is similar to SB 11 (Ashby) from 2025, which was vetoed by the Governor. In this veto message, he wrote:

> I commend the author for working to ensure that our state is prepared for the challenges raised by AI's ability to produce highly realistic digital content. I share the author's concern over the risks posed by synthetic content, including the use of AI to impersonate or appropriate another's likeness without their consent. However, this bill also requires any AI technology that enables a user to create a digital replica to include, wherever a user may input a prompt, a hyperlink to a clear and conspicuous disclosure to warn users of potential civil or criminal liability. Failure to include the hyperlink exposes the technology provider to significant civil liability under this measure.
>
> This year, I have signed bills requiring companion chatbot operators to disclose to users that they are interacting with an artificial system (SB 243, Padilla) and internet companies to warn minors of the potential dangers of social media use (AB 56, Bauer-Kahan). Under certain circumstances, public disclosures and warning labels can play a key role in providing transparency to the public and mitigating harm. In this case, however, it is unclear whether a warning would be sufficient to dissuade wrongdoers from using AI to impersonate others without their consent.

However, this bill, while similar to SB 11, does not require a creator to include a hyperlink to a disclosure regarding civil and criminal liability. It simply includes digital replicas in statutes related to false impersonation and violations of the right of publicity statute.

7) **Argument in Support**: According to *11:11 Media*, "As artificial intelligence tools become more advanced and more accessible, it has become far too easy to create and spread nonconsensual AI-generated content. A person's voice or likeness can now be copied, manipulated, and used without their knowledge or consent. This abuse can be used to humiliate, harass, exploit, and impersonate people, causing serious emotional, reputational, and financial harm.

"This issue is urgent. AI-generated abuse is already being used to create sexually explicit deepfakes, spread false statements, and impersonate real people in deeply harmful ways. California's Department of Justice cites research showing that 90% of victims are women, 93% suffered significant emotional distress, 51% had suicidal thoughts, and 49% reported

being stalked or harassed online by people who saw the material. These harms disproportionately affect women and girls and increasingly affect children as well.

...

"SB 1111 is an important step to ensure California law keeps pace with this growing threat. It reflects a simple principle: people deserve protection when their voice or likeness is used without consent, including through AI-generated digital replicas. As technology moves faster than the law, California must act to protect victims and provide clearer paths to accountability. California has often led the nation in responding to new harms, and this bill continues that leadership. It sends a clear message that innovation cannot come at the expense of safety, dignity, and basic protections."

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

9) **Related Legislation**: SB 11 (Ashby) would have ensured that computer-manipulated or generated content is incorporated into the right of publicity law and criminal false impersonation statutes. This bill requires those making available technology to provide a warning to consumers about liability for misuse, as provided. This bill also requires Judicial Council to review the impact of AI on evidence introduced in court proceedings and to adopt rules of court as necessary. SB 11 was vetoed by the Governor.

10) **Prior Legislation**:

a) AB 316 (Krell), Chapter 672, Statutes of 2025, established that in civil actions, where a plaintiff alleges harm caused by AI, a defendant who developed, modified, or used the AI is prohibited from asserting that the AI acted autonomously as a defense.

b) AB 1836 (Bauer-Kahan), Chapter 258, Statutes of 2024, established a specific cause of action for beneficiaries of deceased celebrities for the unauthorized use of a digital replica of the celebrity in audiovisual works or sound recordings.

c) AB 2602 (Kalra), Chapter 259, Statutes of 2024, limited the unauthorized use of digital replicas by providing that a provision in an agreement between an individual and any other person for the performance of personal or professional services is unenforceable only as it relates to a new performance, fixed on or after January 1, 2025, by a digital replica of the individual if the provision meets all of the specified conditions.

d) SB 942 (Becker), Chapter 291, Statutes of 2024, placed obligations on businesses that provide generative AI systems to make accessible tools to detect whether specified content was generated by those systems. These "covered providers" are required to offer visible, and include imperceptible, markings on AI-generated content to identify it as such.

e) SB 970 (Ashby), of the 2023-24 Legislative Session, was similar to this bill and was held in the Senate Committee on Appropriations.

REGISTERED SUPPORT / OPPOSITION:

Support

11:11 Media Impact (Sponsor)
California Federation of Labor Unions, Afl-cio
California Initiative for Technology & Democracy, a Project of California Common CAUSE
Chamber of Progress
Common Sense Media
Rape, Abuse, & Incest National Network
Sag-aftra
Transparency Coalition.ai
1 Private Individual

Opposition

None submitted.

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

Date of Hearing: June 30, 2026
Deputy Chief Counsel: Stella Choe

ASSEMBLY COMMITTEE ON PUBLIC SAFETY
Nick Schultz, Chair

SB 1157 (Archuleta) – As Amended June 22, 2026

As Proposed to be Amended in Committee

SUMMARY: Requires a court, when determining whether to place a ward in a particular less restrictive program (LRP) that includes congregate residential care, to consider specified information provided by probation, and requires program providers to provide information to the probation department for purposes of providing this information to the court. Specifically, **this bill**:

1) Requires the court to consider the following information provided by probation in determining whether a particular LRP is an appropriate placement for a ward:

   a) Whether the program has current general liability insurance, professional liability insurance, and workers' compensation insurance policies that satisfy any legal requirement to have insurance that is applicable to the program;

   b) Whether the program has conducted criminal background checks on staff who have direct contact with wards or as otherwise required by law;

   c) Whether the program has a plan for adhering to wards' case plans and applicable accountability measures;

   d) Whether the program has proof of notice submitted to the city and county in which it operates; and,

   e) Whether the program has a rate structure.

2) Specifies that the bill's provisions do not apply to either of the following LRPs:

   a) A program operated by a juvenile facility subject to oversight and regulation by the Board of State and Community Corrections applicable regulations; or,

   b) A program in the home of the ward's parent or a supportive relative recognized by the county probation department and agreed to by the court.

3) States that the court shall state on the record the reason for placing a ward in a particular LRP that is a program in which the ward resides in congregate residential care.

4) Clarifies that nothing in this bill's provisions shall be construed to limit the court's discretion pursuant to existing law.

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 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).)

4) 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).)

5) Requires the court, in all cases in which a minor is adjudged a ward or dependent child of the court, to 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,

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

6) 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).)

7) 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).)

8) Authorizes a court to order commitment of a minor to a juvenile home, ranch, camp, or forestry camp, or to juvenile hall if the county does not have a juvenile home, ranch, camp, or forestry camp, when the minor is adjudged a ward of the court. (Welf. & Inst. Code, § 730, subd. (a)(1).)

9) Authorizes a court to order a ward who is 14 years of age or older to be committed to a secure youth treatment facility (SYTF) for a period of confinement if the ward meets all of the following criteria:

   a) 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.

   b) The adjudication is the most recent offense for which the juvenile has been adjudicated.

   c) The court has made a finding on the record that a less restrictive, alternative disposition for the ward is unsuitable. (Welf. & Inst. Code, § 875, subd. (a)(1)-(3).)

10) Requires the court, in determining whether a less restrictive disposition is suitable, to consider all relevant and material evidence, including the recommendations of counsel, the probation department, and any other agency or individual designated by the court to advise on the appropriate disposition of the case. (Welf. & Inst. Code, § 875, subd. (a)(3)(A)-(E).)

11) Requires the court, in making its order of commitment for a ward, to set a baseline term of confinement for the ward that is based on the most serious recent offense for which the ward has been adjudicated. Requires the court to additionally set a maximum term of confinement for the ward. (Welf. & Inst. Code, § 875, subds. (b)(1), (c)(1).)

12) Requires the court, within 30 judicial days of making an order of commitment to an SYTF, to receive, review, and approve an individual rehabilitation plan (IRP) that meets specified requirements 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. (Welf. & Inst. Code, § 875, subd. (d)(1).)

13) Requires an IRP to 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) Requires the ward and their family to be given the opportunity to provide input regarding the needs of the ward, and requires the opinions of the ward and the ward's family to be included in the IRP report to the court. (Welf. & Inst. Code, § 875, subd. (d)(2).)

14) Requires the court to schedule and hold a progress review hearing for the ward not less frequently than once every six months during the term of commitment, including any term spent in an LRP. Requires the court to evaluate the ward's progress in relation to the IRP and determine whether the baseline term of confinement is to be modified in the review hearing. (Welf. & Inst. Code, § 875, subd. (e)(1)(A).)

15) Provides that the court may order, at the conclusion of each review hearing and upon making a finding on the record, 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. Authorizes the court to additionally order that the ward be assigned to an LRP. Provides that the determination of whether the baseline term will be modified, or whether a youth will be assigned to an LRP, is a judicial decision and the juvenile court's discretion may not be limited by stipulation of the parties at any time. (Welf. & Inst. Code, § 875, subd. (e)(1)(A).)

16) Authorizes the court, if the ward is already assigned to an LRP, to order a reduction in the length of time the ward is to remain in the LRP prior to a probation discharge hearing, based on the ward's progress. Authorizes the court, if it determines that ward has failed materially to comply with the court-ordered conditions of placement in the LRP, to modify the order of placement in the LRP. (Welf. & Inst. Code, § 875, subd. (e)(1)(B).)

17) Prohibits the ward's confinement time, including time spent in an LRP, from being extended beyond the baseline confinement term, or beyond a modified baseline term, for disciplinary infractions or other in-custody behaviors. Requires that any infractions or behaviors be addressed by alternative means, which may include a system of graduated sanctions for disciplinary infractions adopted by the operator of an SYTF and subject to any relevant state standards or regulations that apply to juvenile facilities generally. (Welf. & Inst. Code, § 875, subd. (e)(2).

18) Requires the court to hold a probation discharge hearing for the ward at the conclusion of the baseline confinement term, including any modified baseline term. Requires the probation discharge hearing to occur at the end of the period, or modified period, of placement that has been ordered by the court for a ward who has been placed in an LRP. (Welf. & Inst. Code, § 875, subd. (e)(3).)

19) Requires the court to review the ward's progress toward meeting the goals of the IRP and the recommendations of counsel, the probation department, and any other agencies or individuals having information the court deems necessary at the discharge hearing. Requires the court to order that the ward be discharged to a period of probation supervision in the community under conditions approved by the court at the conclusion of the hearing unless the court finds that the ward constitutes a substantial risk of imminent harm to others in the community if released from custody. Provides that if the court finds that the ward constitutes a substantial risk of imminent harm to others in the community if released from custody, the ward may be

retained in custody in an SYTF for up to one additional year of confinement, subject to review hearing and probation discharge hearings and to the maximum confinement provisions of law. (Welf. & Inst. Code, § 875, subd. (e)(3).)

20) Requires the court, if the ward is discharged to probation supervision, to determine the reasonable conditions of probation that are suitable to meet the needs of the ward and to facilitate the ward's successful reentry into the community. Requires the court to periodically review the ward's progress and to 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. Authorizes the court, if it finds that the ward has failed materially to comply with the reasonable orders of probation imposed by the court, to order that the ward be returned to a juvenile facility or to an LRP 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. (Welf. & Inst. Code, § 875, subd. (e)(4).)

21) Authorizes the court, upon a motion from the probation department or the ward, to order that the ward be transferred from an SYTF to an LRP. Requires the court to consider the recommendations of the probation department on the proposed change in placement. Requires approval of the request for an LRP to be made only upon the court's determination that the ward has made substantial progress toward the goals of the IRP and that placement is consistent with the goals of youth rehabilitation and community safety. (Welf. & Inst. Code, § 875, subd. (f)(1).)

22) Requires the court, in making its determination to approve a transfer request to an LRP, to consider both of the following factors:

    a) The ward's overall progress in relation to the rehabilitation plan during the period of confinement in an SYTF.

    b) The programming and community transition services to be provided, or coordinated by the LRP, including, but not limited to, any educational, vocational, counseling, housing, or other services made available through the program. (Welf. & Inst. Code, § 875, subd. (f)(1).)

23) Authorizes the court, in any order transferring the ward from an SYTF to an LRP, to require the ward to observe any conditions of performance or compliance with the program that are reasonable and appropriate and that are within the capacity of the ward to perform. (Welf. & Inst. Code, § 875, subd. (f)(2).)

24) Authorizes the court, if it determines that the ward has materially failed to comply with the court-ordered conditions of placement in the LRP, to modify the terms and conditions of placement in the program or to order the ward to be returned to an SYTF for the remainder of the baseline term, or modified baseline term, and subject to further periodic review hearings and to the maximum confinement provisions of law. (Welf. & Inst. Code, § 875, subd. (f)(2).)

FISCAL EFFECT: Unknown.

COMMENTS:

1) **Sponsor**: Chief Probation Officers of California

2) **Author's Statement**: According to the author, "Despite the establishment of LRPs as an option for courts to consider upon progress of a youth, statute does not establish a framework when the program is for a residential setting when that setting is not otherwise governed or regulated by a government or public entity. Because these programs are part of the term of secure detention, and not a part of post jurisdiction or release, it's critical that there is a framework in place to set programming expectations and safety considerations for programs serving the highest risk and highest need youth and young adults in the state.

   "This has resulted in significant program offering and administration variations across counties, creating fiscal and service delivery inconsistencies and giving rise to program integrity and public safety concerns. Examples of this are programs with no background checks for employees, no coordination with county probation for on-going supervision or violations, no parameters for mixed-gender staff/staff family members living on-site, and no metrics for pricing. This is inconsistent with other residential or congregate care settings for youth. As these programs are part of the baseline term for the highest risk and highest need youth and young adults in the state it is critical to establish statutory guidance setting program administration and public safety expectations."

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).)

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

4) **Juvenile Justice Realignment**: In 2020, the Legislature passed Senate Bill 823 (Committee on Budget and Fiscal Review) which established a process for realigning California's juvenile system by phasing out the state's youth prison system, the Division of Juvenile Justice, and transferring the responsibility for managing all youthful offenders to local jurisdictions.[1]

   Among other things, SB 823 stated the intent of the Legislature to establish a separate dispositional track for higher-need youth by March 1, 2021. In order to implement Senate Bill 823, in 2021, the Legislature passed Senate Bill 92 (Committee on Budget and Fiscal Review) which authorized counties to establish SYTFs for the placement of wards who were adjudicated for specified serious offenses when the juvenile was age 14 or older, as specified. (Welf. & Inst. Code, § 875.) At the conclusion of a baseline confinement term as determined by the court, a ward could be discharged to a period of probation supervision in the community under conditions approved by the court, unless the court finds that the ward constitutes a substantial risk of imminent harm to others in the community if released from custody. (Welf. & Inst. Code, § 875, subd. (e)(3).) The court could also discharge a ward to a program of probation supervision. The court would 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. If the ward was discharged to a program of probation supervision, the court would be required to periodically review the ward's progress and make any additional orders deemed necessary in order to facilitate the provision of services or to otherwise support the ward's successful reentry into the community. (Welf. & Inst. Code, § 875, subd. (e)(4).) If the ward failed to materially comply with the reasonable orders of probation imposed by the court, the court could order that the ward be returned to custody in the SYTF for the remainder of the presumptive term initially ordered by the court, subject to review hearings. (*Ibid.*)

5) **LRPs**: The court may, upon the motion of the probation department or ward, order that the ward be transferred from a SYTF to an LRP, such as a halfway house, a camp or ranch, or a community residential or nonresidential service program. The purpose of an LRP is to facilitate the safe and successful reintegration of the ward into the community. (Welf. & Inst. Code, § 875, subd. (f)(1).) The court shall consider the recommendations of the probation department on the proposed change in placement. Approval of the request for a LRP shall be made only upon the court's determination that the ward has made substantial progress toward the goals of the IRP and that placement is consistent with the goals of youth rehabilitation and community safety. (*Ibid.*)

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

In making its determination, the court must consider the youth's overall progress in relation to the IRP during the period of confinement in an SYTF as well as the programming and community transition services to be provided or coordinated by the LRP, including any educational, vocational, counseling, housing, or other services made available through the program. (Welf & Inst. Code, § 875, subd. (f)(1)(A) & (B).)

In transferring a ward to an LRP, the court may require the ward to observe reasonable conditions and shall set the length of time the ward is to remain in LRP, not to exceed the remainder of the baseline or modified baseline term. (Welf. & Inst. Code, § 875, subd. (f)(2).) If, after placement in an LRP, 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 an SYTF for the remainder of the baseline term, or modified baseline term, and subject to further periodic reviews and to the maximum confinement set by the court. (*Ibid.*)

This bill would require a court, in determining whether to place a ward in a particular LRP that includes congregate residential care, to consider the following information, which is to be provided by probation: 1) whether the program has current general liability insurance, professional liability insurance, and workers' compensation insurance policies that satisfy any legal requirement to have insurance that is applicable to the program; 2) whether the program has conducted criminal background checks on staff who have direct contact with wards or as otherwise required by law; 3) whether the program has a plan for adhering to wards' case plans and applicable accountability measures; 4) whether the program has proof of notice submitted to the city and county in which it operates; and, 5) whether the program has a rate structure. The bill requires the court to state on the record the reason for placing a ward in a particular LRP that is a program in which the ward resides in congregate residential care.

This bill, as proposed to be amended in committee, would also clarify that its provisions are not to be construed to limit the court's discretion as outlined in Welfare and Institutions Code section 875 which gives the court broad discretion to make determinations on whether a ward should be placed in an LRP. Thus, the information that may be provided to the court by probation about a particular LRP pursuant to this bill shall be considered by the court but the court's discretion under Welfare and Institutions Code section 875 is not limited in any way.

Proponents of the bill argue that, because what constitutes an LRP varies widely both in operation and availability depending on each individual county, counties have experienced fiscal and service delivery inconsistencies and operational issues that raise both safety concerns for the ward and the public.

Opponents believe that this bill improperly regulates residential LRPs without any agency oversight and that this will result in courts opting not to place youth in LRPs that may otherwise fit their rehabilitative needs. Opponents argue that more data on LRPs are needed and have recommended instead to require the Office of Youth and Community Restoration (OYCR)[2] to conduct an analysis of existing and potential community-based residential LRPs

[2] OYCR was established in 2021 as part of juvenile justice realignment measures to guide the transition from state-run youth incarceration to county care. OYCR also collects and shares juvenile justice data and practices to develop

designed to effectively meet the service needs of youth transferring from SYTFs, and to provide the Legislature with a report recommending if any additional program models and licensing categories that should be developed and the standards or regulatory structure necessary to establish them.

6) **Data on Step Downs to LRPs**: With respect to transfers to LRPs, 100 youths were stepped down to an LRP during fiscal year 2022-23, and 161 youths were stepped down to an LRP during fiscal year 2023-24.[3] Notably, 14 counties transferred youth from an SYTF to an LRP during fiscal year 2022-23, and 26 counties did the same during fiscal year 2023-24. Among those counties, half were in Northern California, 27% were in Southern California, 23% were in Central California.[4] Three-quarters of those stepped down to an LRP in fiscal year 2023-24 were age 19 or older, and the most commonly adjudicated offenses for those who were stepped down to LRPs were homicide, robbery, assault, and attempted homicide.[5]

7) **Argument in Support**: According to *Chief Probation Officers of California*, the sponsor of this bill, "Despite the establishment of LRPs as an option for courts to consider upon progress of a young adult, statute does not establish a framework when the identified program is a congregate residential setting not otherwise governed or regulated by a government or public entity. Because these programs are part of their custodial term, which, prior to SB 823 would have been served entirely at DJJ and not a part of post jurisdiction or release, it's critical that there is a framework in place. Without these most basic criteria, counties, courts and other stakeholders may not have the confidence necessary to utilize this tool.

"SB 1157 simply establishes a framework for providing information to the courts in making decisions to transfer a youth to a congregate residential program as to whether an LRP adheres to the young person's case plan and accountability measures, performs staff background checks, obtains appropriate insurance, and has provided notice to the city and county in which it operates. Having these types of criteria is an important aspect as it relates to the use of taxpayer funds, particularly as no parameters have been established to date for the costs of these programs when created as part of the DJJ closure.

"These criteria are necessary as LRPs are serving individuals who are the highest need, have committed the most serious offenses within the juvenile justice system, and as previously stated, would have otherwise been serving the entirety of their custodial time at a secure state DJJ facility but for SB 823 (2020). This is a significant design flaw in the closure of DJJ and without SB 1157 we risk not only the safety of the community but also endangering the youth and young adults placed in our care."

8) **Argument in Opposition**: According to *Youth Justice Coalition*, "While we support the goal of ensuring that youth are served by programs capable of meeting their needs, SB 1157 is not the appropriate mechanism for accomplishing that goal.

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strong county-level programs and consistent treatment of youth to meet their individualized needs. (See https://oycr.ca.gov/about/).

[3] OYCR, *AB 102 Report* (Sept. 2025), p. 27 available at https://oycr.ca.gov/wpcontent/uploads/sites/346/2025/09/2025-AB-102-Report_FINAL.pdf .

[4] *Ibid.*

[5] *Id.* at pp. 28-29.

"First, the bill is duplicative of existing law. Courts are already required to consider the probation department's recommendations on LRP transfers. Welfare and Institutions Code section 875(f) expressly provides that "(t)he court shall consider the recommendations of the probation department on the proposed change in placement" and further requires courts to evaluate the youth's progress toward their rehabilitative plan and the programming and community transition services the LRP will provide. In practice, probation departments already evaluate proposed LRPs and routinely take positions regarding their appropriateness. SB 1157 does not fill a gap in existing law; rather, it creates a new layer of review that duplicates responsibilities probation departments already exercise under existing statutory authority.

"Second, the bill effectively creates a system of statewide standards without identifying any entity authorized to develop, interpret, or enforce those standards. If the criteria identified in SB 1157 are intended to function as meaningful standards, someone must determine what compliance requires. Yet the bill does not designate a regulatory agency, establish a rulemaking process, or create any mechanism for resolving disputes about interpretation.

"This leaves only two possibilities, and neither is workable. If probation departments are expected to determine what the criteria require, the result will be 58 counties developing inconsistent standards independently, undermining the statewide uniformity the bill presumably seeks. If the criteria are instead treated as a bare checklist, they function as paperwork rather than protection, providing no meaningful assurance that a proposed LRP actually meets the needs of the youth being considered for transfer.

"Probation departments are not regulatory agencies. They are not equipped or authorized to promulgate statewide standards governing insurance requirements, employment practices, staff qualifications, proof of notice, or program operations. Nor are they positioned to make authoritative determinations regarding compliance with complex legal and regulatory frameworks that often fall within the jurisdiction of entirely different agencies. For example, whether a program maintains the types and levels of insurance required by law depends on the nature of the program and the regulatory framework that applies to it. Similar issues arise with the bill's other requirements, including whether staff background checks satisfy applicable legal requirements and whether a program's accountability measures are sufficient. These are highly specialized inquiries that fall well outside the traditional expertise and authority of probation departments."

9) **Related Legislation**: None

10) **Prior Legislation**:

a) SB 824 (Menjivar), of the 2025-2026 Legislative Session, would have required Individualized Rehabilitation Plans (IRP) for youth committed to an SYTF to contain a roadmap for their successful return to their community and requires judges to assess the juvenile's progress at each six-month review hearing. SB 824 was held in the Senate Appropriations Committee suspense file.

b) AB 102 (Ting), Chapter 38, Statutes of 2023, required county probation departments to provide the OYCR with specific juvenile justice data related to the realignment of DJJ.

c) SB 92 (Committee on Budget and Fiscal Review), Chapter 18, Statutes of 2021, allowed counties, commencing July 1, 2021, to establish SYTFs for wards who are 14 years of age or older who have been adjudicated and found to be a ward of the court based on an offense that would have resulted in a commitment to the DJJ, as provided.

d) SB 823 (Committee on Budget and Fiscal Review), Chapter 337, Statutes of 2020, established a process for realigning California's juvenile system by phasing out the state's youth prison system, DJJ, and transferring the responsibility for managing all youthful offenders to local jurisdictions.

REGISTERED SUPPORT / OPPOSITION:

Support

Chief Probation Officers' of California (CPOC) (Sponsor)
Contra Costa County
County of Fresno
County of Kern
Inyo County Board of Supervisors
Kern County Board of Supervisors
League of California Cities
Los Angeles County Deputy Probation Officers Afscme Local 685
Marin County Board of Supervisors
Peace Officers Research Association of California (PORAC)
Shasta County Board of Supervisors
Shasta; County of
Teamsters Local 986

Opposition

ACLU California Action
Alianza for Opportunity
Alliance for Boys and Men of Color
California Attorneys for Criminal Justice
California Coalition for Women Prisoners
California Public Defenders Association
California Youth Defender Center
Californians United for a Responsible Budget
Cancel the Contract Antelope Valley
Care First California
Center on Juvenile and Criminal Justice
Communities United for Restorative Youth Justice
Community Justice Center
Community Works
Courage California
Felony Murder Elimination Project
Fresh Lifelines for Youth
Friends Committee on Legislation of California
Glide Foundation

Hang Out Do Good
Haywood Burns Institute
Justice2jobs Coalition
L.i.f.e. 2.0 INC.
LA Defensa
Latinojustice
Legal Services for Prisoners With Children
Local 148 Los Angeles County Public Defender's Union
National Center for Youth Law
National Institute for Criminal Justice Reform
Peace and Justice Law Center
Prisma Legal Center for Youth Justice
Restoring Hope California
San Francisco Public Defender's Office
Silicon Valley De-bug
Sister Warriors Freedom Coalition
Smart Justice California
Starting Over Strong
The California Youth Justice Project
The Children's Initiative
The Collective for Liberatory Lawyering
The David's Harp Foundation
The Place4grace
The W. Haywood Burns Institute
Young Women's Freedom Center
Youth Justice Coalition
Youth Law Center

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

Amended Mock-up for 2025-2026 SB-1157 (Archuleta (S))

Mock-up based on Version Number 95 - Amended Assembly 6/22/26
Submitted by: Stella Choe, Assembly Public Safety Committee

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

SECTION 1. Section 877 is added to the Welfare and Institutions Code, to read:

877. (a) Unless this section does not apply pursuant to subdivision (b), when determining whether to place a ward in a particular less restrictive program pursuant to subdivision (f) of Section 875, if the program is one in which the ward resides in congregate residential care, the court shall consider all of the following information, which shall be submitted by program providers to the probation department for purposes of providing this information to the court:

(1) Whether the program has current general liability insurance, professional liability insurance, and workers' compensation insurance policies that satisfy any legal requirement to have insurance that is applicable to the program.

(2) Whether the program has conducted criminal background checks on staff who have direct contact with wards or as otherwise required by law.

(3) Whether the program has a plan for adhering to wards' case plans and applicable accountability measures.

(4) Whether the program has proof of notice submitted to the city and county in which it operates.

(5) Whether the program has a rate structure.

(b) This section does not apply to either of the following less restrictive programs:

(1) A program operated by a juvenile facility subject to oversight and regulation by the Board of State and Community Corrections pursuant to Title 15 of the California Code of Regulations.

(2) A program in the home of the ward's parent or a supportive relative recognized by the county probation department and agreed to by the court.

(c) After considering the information described in subdivision (a), the court shall state on the record the reason for placing a ward in a particular less restrictive program that is a program in which the ward resides in congregate residential care.

(d) Nothing in this section shall be construed to limit the court's discretion pursuant to Section 875.

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

California State Assembly

PUBLIC SAFETY

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

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

ANALYSIS PACKET PART II

(SB 1203 Smallwood-Cuevas – SB 493 Becker)

Date of Hearing: June 30, 2026
Counsel: Kimberly Horiuchi

ASSEMBLY COMMITTEE ON PUBLIC SAFETY
Nick Schultz, Chair

SB 1203 (Smallwood-Cuevas) – As Amended May 19, 2026

SUMMARY: Requires annual de-escalation training and basic employee rights for proprietary private security officers and private security guards. Specifically, **this bill**:

1) Prohibits a private patrol operator (PPO) from providing required de-escalation training, and instead requires an organization that employs evidence-based, trauma-informed techniques and strategies to provide it.

2) Requires, on or before July 1, 2027, the Department of Industrial Relations, Industrial Welfare Commission (IWC) to set a minimum wage for the property services industry.

3) Requires, beginning July 1, 2028, each registered employee, in addition to any annual required training, to annually complete a minimum of eight hours of training dedicated to practicing de-escalation skills through in-person role-plays and interactive training methods administered by an approved organization, as specified.

4) Requires an instructor who is a human being, physically present, and in person when presenting the training and be available at all times during the training for student questions.

5) Requires the cost of the training be provided by the employer, and training time must be compensated by the PPO if the guard is employed by, or has a pending offer of employment from, the PPO.
6) Requires the additional de-escalation training to be administered by an organization, or a person certified by an organization, that employs evidence-based, trauma-informed techniques and strategies in their training.

7) States an organization that employs evidence-based, trauma-informed techniques and strategies shall be an organization that provides specialized de-escalation training that is based on principles and methods informed by peer-reviewed or clinical research on trauma and includes role-playing and interactive methods.

8) Requires the Department of Consumer Affairs (DCA), Bureau of Security and Investigative Services (BSIS) to develop emergency regulations establishing the criteria the bureau shall use to evaluate whether any organization is a qualifying organization, and requires any organization qualified to provide training be identified by July 1, 2028.

9) States an PPO, a subsidiary of a PPO, or is a subsidiary of an organization that shares the same parent organization as an PPO is ineligible to provide the training described above.

10) Requires any eligible training organization to issue a certificate of completion to a trainee and their employer, if any, upon satisfactory completion of this training.

11) Requires an organization seeking approval to offer de-escalation training to complete an application for certification, as specified. This application shall be accompanied by a $250 application fee, be in a form prescribed by the BSIS chief of the bureau, and shall include, but not be limited to, all of the following information:

    a) The name, business address, and telephone number of the organization.

    b) A detailed description of the places, days, and times the course will be offered.

    c) An estimate of the minimum and maximum class size.

    d) Location and description of the facilities.

    e) The name of any instructor who will teach the course, each instructor's months or years of experience in de-escalation training, and each instructor's months or years of experience providing in-person de-escalation training.

    f) A certification that the applying organization will conduct the training as required by this section, any applicable regulations, and the standard course and curriculum developed, as specified.

12) Requires the BSIS chief to issue, upon the DCA's approval a "de-escalation organization certificate" (certificate), which must be posted in a conspicuous place at the facility.

13) Authorizes the BSIS chief to refuse to issue or to cancel a previously issued certificate or to assess fines, as specified, for the failure of the organization to conduct trainings in accordance with this bill and any applicable regulations.

14) Requires the BSIS to develop and establish by emergency regulation a standard course and curriculum for the de-escalation training. The emergency regulations shall be adopted in accordance with the rulemaking provisions of the Administrative Procedure Act.

15) Requires, effective July 1, 2028, two of the first 18 hours of the annual 42 hours of training be dedicated to training employees on the notice of employee rights given to current employees regarding topics such as workers' compensation, the right to organize, and immigration-related rights.

16) Provides that, upon request, a labor organization that represents security guards of a licensee and is approved by the bureau to be a trainer shall be entitled to provide the two-hour training on the notice of employee rights. Absent such request, this two-hour training may be provided by other entities, as specified.

17) Requires the BSIS to approve a labor organization to be a provider of the two-hour training within 30 days of a labor organization's written request to the bureau to be approved as a trainer if the request identifies the names of the trainers to provide the training and certifies that the trainers are qualified to train on the notice of employee rights.

EXISTING LAW:

1) States homicide is justifiable when committed by peace officers and those acting by their command in their aid and assistance, under either of the following circumstances:

   a) In obedience to any judgment of a competent court.

   b) When the homicide results from a peace officer's use of force that is in compliance with existing law. (Pen. Code, § 186, subd. (a), (b).)

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

3) States a peace officer is justified in using deadly force upon another person only when the officer reasonably believes, based on the totality of the circumstances, that such force is necessary for either of the following reasons:

   a) To defend against an imminent threat of death or serious bodily injury to the officer or to another person.

   b) To apprehend a fleeing person for any felony that threatened or resulted in death or serious bodily injury, if the officer reasonably believes that the person will cause death or serious bodily injury to another unless immediately apprehended. Where feasible, a peace officer shall, prior to the use of force, make reasonable efforts to identify themselves as a peace officer and to warn that deadly force may be used, unless the officer has objectively reasonable grounds to believe the person is aware of those facts. (Pen. Code, § 835a, subd. (c)(1)(a), (b).)

4) Prohibits a peace officer from using deadly force against a person based on the danger that person poses to themselves, if an objectively reasonable officer would believe the person does not pose an imminent threat of death or serious bodily injury to the peace officer or to another person. (Pen. Code, § 835a, subd. (c)(2).))

5) Defines "proprietary private security officer" to mean an unarmed individual who is employed exclusively by any one employer whose primary duty is to provide security services for their employer, whose services are not contracted to any other entity or person, and who is not exempt, as specified, and who meets both of the following criteria:

   a) Is required to wear a distinctive uniform clearly identifying the individual as a security officer.

   b) Is likely to interact with the public while performing their duties. (Bus & Prof., §7574.1, subd. (g).

6) Defines a "PPO" as a person who agrees to furnish, or furnishes, a watchman, guard, patrolperson, or other person to protect persons or property or to prevent the theft, unlawful taking, loss, embezzlement, misappropriation, or concealment of any goods, wares, merchandise, money, bonds, stocks, notes, documents, papers, or property of any kind; or

performs the service of a watchman, guard, patrolperson, or other person, for any of these purposes. (Bus. & Prof. Code, § 7582.1, subd. (a).)

7) Defines a security guard or security officer as an employee of a private patrol operator or an employee of a lawful business or public agency who performs the functions described above on or about the premises owned or controlled by the customer of the PPO or by the guard's employer or in the company of persons being protected. (Bus. & Prof. Code, § 7582.1, subd. (e).)

8) Requires the training course in the exercise of the power to arrest and the appropriate use of force to be administered, tested, and certified by any licensee or by any organization or school approved by DCA. The course of training is required to be approximately eight hours in length and cover 24 individual topics, including:

   a) Responsibilities and ethics in citizen arrest.

   b) Relationship between a security guard and a peace officer in making an arrest.

   c) Limitations on security guard power to arrest.

   d) Restrictions on searches and seizures.

   e) Criminal and civil liabilities, including both of the following:

      i) Personal liability.

      ii) Employer liability.

   f) Trespass law.

   g) Ethics and communications.

   h) Emergency situation response, including response to medical emergencies.

   i) Security officer safety.

   j) The appropriate use of force, to include, among other topics:

      i) Legal standards for use of force.

      ii) Duty to intercede.

      iii) De-escalation and interpersonal communication training, including tactical methods that use time, distance, cover, and concealment, to avoid escalating situations that lead to violence.

      iv) Implicit and explicit bias and cultural competency.

      v) Skills, including de-escalation techniques, to effectively, safely, and respectfully interact with people with disabilities or behavioral health issues.

vi) Mental health and policing, including bias and stigma. (Bus. & Prof., § 7583.7, subd. (a).)

9) Requires an employer, on or before February 1, 2026, and annually thereafter, to provide a stand-alone written notice to each current employee in a manner the employer normally uses to communicate employment-related information. The written notice shall also be provided to each new employee upon hire. The notice shall contain a description of workers' rights in the following areas:

   a) The right to workers' compensation benefits, including disability pay and medical care for work-related injuries or illness, as well as the contact information for the Division of Workers' Compensation.

   b) The right to notice of inspection by immigration agencies, as specified.

   c) Protection against unfair immigration-related practices against a person exercising protected rights.

   d) The right to organize a union or engage in concerted activity in the workplace.

   e) Constitutional rights when interacting with law enforcement at the workplace, including an employee's right under the Fourth Amendment to the United States Constitution to be free from unreasonable searches and seizures and rights under the Fifth Amendment to the United States Constitution to due process and against self-incrimination. (Lab. Code, § 1553, subd. (b).)

10) Requires notice to also contain both of the following:

   a) A description of new legal developments pertaining to laws enforced by the Labor and Workforce Development Agency that the Labor Commissioner (LC) deems material and necessary.

   b) A list, developed by the LC, of the enforcement agencies that may enforce the underlying rights in the notice. (Lab. Code, § 1553, subd. (b).)

11) Provides that it is the continuing duty of the IWC to ascertain the wages paid to all employees in this state, to ascertain the hours and conditions of labor and employment in the various occupations, trades, and industries in which employees are employed in this state, and to investigate the health, safety, and welfare of those employees. (Lab. Code, § 1173).

12) Requires the IWC to conduct a full review of the adequacy of the minimum wage at least once every two years. The IWC may, upon its own motion or upon petition, amend or rescind any order or portion of any order or adopt an order covering any occupation, trade, or industry not covered by an existing order pursuant to this chapter. (Lab. Code, § 1173.)

13) Requires the IWC, before adopting any new rules, regulations, or policies, to consult with the Occupational Safety and Health Standards Board to determine those areas and subject matters where the respective jurisdictions of the IWC and the Occupational Safety and Health Standards Board overlap. In the case of such overlapping jurisdiction, the

Occupational Safety and Health Standards Board shall have exclusive jurisdiction, as specified. (Lab. Code, § 1173.)

FISCAL EFFECT: Unknown.

COMMENTS:

1) **Sponsor**: SEIU California

2) **Author's Statement**: According to the author, "Security guards are relied upon by communities, local businesses, property managers, nonprofits, and local governments to help keep people safe. They are often the first to respond during emergencies and high-stress situations and must act quickly to protect those around them.

   "Communities increasingly rely on security guards as essential workers, and the scope of their work has significantly expanded. However, their wages, working conditions, and training standards have not kept pace with the importance of their role or the risks of the profession. SB 1203 improves working conditions for security guards by ensuring they are adequately trained and fairly compensated for their responsibilities."

3) **Private Security:** The private security industry in the U.S. dates back to the 19th century, with private citizens performing many duties associated with today's federal and state law enforcement. Growth in the number of individuals and breadth of activities performed, including guarding railroad shipments, detective work to investigate crimes, tracking down and apprehending criminals, and providing security advice to banks was integral to supporting regulation of the industry.

   Regulatory oversight of the private security industry in California began in 1915 with the creation of the Detective Licensing Board under the State Board of Prison Directors, which licensed and regulated private detectives. The Detective Licensing Board went through several iterations pertaining to structure and scope until the early 1990s.

   In 1993, AB 936 (Rainey, Chapter 1263) was formally renamed the BSIS. The BSIS currently licenses approximately 3,000 PPOs and approximately 313,000 security guards who are employed by the PPOs.

   According to the U.S. Bureau of Labor Statistics, there are around 186,000 security guards in California. Eighty percent of the workforce is male, and the majority are either Latino or Black workers.[1] Approximately 22 percent of the workforce is foreign-born.[2]

   An April 2026 report by the UC Berkeley Labor Center found that despite a growing private security services industry, the workers remain poorly compensated and nearly half have no access to health insurance through their employer or the employer of a household member Furthermore, their working conditions are characterized by a higher-than-average number of

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[1]Hernández, Kassandra and Lopezlira, Enrique, "Demographic and Job Characteristics of the Security Guard Workforce in California," UC Berkeley Labor Center, April 2026, utilizing American Community Survey data.
[2] *Ibid.*

workplace assaults and fatal injuries.[3] The median salary for security guards in California is approximately $38,371 and a median wage of $20.09.[4] The median wage for other workers in California is much higher at $28.16. The median wage for security guards is so low in fact that approximately 44% would qualify as "low wage" workers in California.[5]

Any organization or school that seeks to provide training to guards and officers must be approved by the BSIS (See Bus. & Prof. Code, § 7583.6). To obtain approval, an organization or school must submit a letter to BSIS with the name of the organization or school; the location where the training will take place; the location where all training records will be maintained; and the names and resumes for all related instructors.

A PPO that provides the required security guard training to their own employees are not required to obtain approval. A PPO is required to maintain at its principal place of business or branch office a record for each of its registrant employees verifying completion of the Powers to Arrest and Appropriate Use of Force training for the duration of the registrant's employment. The BSIS may inspect the records of any PPO to ensure compliance.

BSIS requires applicants or employees to attend mandatory training on the power to arrest, appropriate use of force, de-escalation, and explicit and implicit bias training. Applicants must complete the full eight-hour power to arrest and appropriate use of force training in order to qualify for a license. AB 229 (Holden), Chapter 697, Statutes of 2021, increased training requirements for security guard applicants and mandated that fifty percent of the appropriate use of force training be provided through traditional classroom instruction. Extensive regulations implementing AB 229 were adopted by the BSIS, effective December 1, 2023.

A guard or officer must attend training on use of force and powers of arrest within six months prior to applying BSIS for registration as a guard or officer. Training on powers of arrest include responsibilities and ethics in citizen arrest; relationship between a security guard and a peace officer in making an arrest; limitations on security guard power to arrest; restrictions on searches and seizures; criminal and civil liabilities, including personal liability and employer liability; trespass law; ethics and communications; emergency situation response, including response to medical emergencies; and security officer safety.

Use of force training includes the following: legal standards for use of force; duty to intercede; the use of objectively reasonable force; supervisory responsibilities; use of force review and analysis; de-escalation and interpersonal communication training, including tactical methods that use time, distance, cover, and concealment, to avoid escalating situations that lead to violence; implicit and explicit bias and cultural competency; skills, including de-escalation techniques, to effectively, safely, and respectfully interact with people with disabilities or behavioral health issues; use of force scenario training, including simulations of low-frequency, high-risk situations and calls for service, shoot-or-don't-shoot situations, and real-time force option decision-making; mental health and policing, including bias and stigma; and active shooter situations. In order to receive a BSIS-approved security

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[3] Wiatrowski, William, 2012. "On Guard Against Workplace Hazards," Monthly Labor Review 0(0):3-11.
[4] Hernández, Kassandra and Lopezlira, Enrique, "Demographic and Job Characteristics of the Security Guard Workforce in California," UC Berkeley Labor Center, April 2026, utilizing American Community Survey data.
[5] *Ibid.*

guard training certificate ("Guard card") for a contracted privacy security company, the applicant must attend 40 hours of training – eight hours to obtain a guard card and 32 hours within the first six months of registration.

4) **Use of Force:** Security officers and guards *are not peace officers* and should not be treated as though they perform the same duties. Law enforcement operate under statutory and constitutional guidelines about use of force and the powers of arrest. Use of force, in particular, is a matter of intense constitutional and legislative debate because it implicates so many different constitutional rights. In 1985, the United States Supreme Court decided the case of *Tennessee v. Garner*, 471 U.S. 1. In *Garner* the court held:

> The use of deadly force to prevent the escape of all felony suspects, whatever the circumstances, is constitutionally unreasonable. It is not better that all felony suspects die than that they escape. Where the suspect poses no immediate threat to the officer and no threat to others, the harm resulting from failing to apprehend him does not justify the use of deadly force to do so. . .. A police officer may not seize an unarmed, non-dangerous suspect by shooting him dead. (*Tenn. v. Garner* (1985) 471 U.S. 1, 11.)

Additionally, the United States Supreme Court decided *Graham v. Connor*, 490 U.S. 386 in 1989. In *Graham* the court held that an objective reasonableness test should be used as the standard to determine whether a law enforcement official used excessive force in the course of making an arrest, or other action. The court stated:

> As in other Fourth Amendment contexts... the "reasonableness" inquiry in an excessive force case is an objective one: the question is whether the officers' actions are 'objectively reasonable' in light of the facts and circumstances confronting them, without regard to their underlying intent or motivation…[t]he "reasonableness" of a particular use of force must be judged from the perspective of a reasonable officer on the scene, rather than with the 20/20 vision of hindsight. (Graham v. Connor (1989) 490 U.S. 386, 396.)

Following the decisions in *Graham* and *Garner,* California operated in a reality where the statutes related to police use of force are outdated and unconstitutional. Prior to 2020, existing statute authorized police to use force to arrest, prevent escape, and overcome resistance – without requiring the force to be proportional. It authorized use of deadly force without limiting its use to situations where killing is needed to defend against a threat of death or serious injury. It appeared to authorize law enforcement to kill any person charged with a felony who is fleeing or resisting arrest – whether or not the person posed a danger to the officer or someone else.

In 2019, however, the Legislature passed, and the Governor signed AB 392 (S. Weber), Chapter 170, changing the standard for excessive force determinations to be more in line with constitutional law. AB 392 amended Penal Code sections 196 and 835a as follows:

Peace officers are justified in using deadly force upon another person only when the officer reasonably believes, based on the totality of the circumstances, that such force is necessary for either of the following reasons:

(a) To defend against an imminent threat of death or serious bodily injury to the officer or to another person; or

(b) To apprehend a fleeing person for any felony that threatened or resulted in death or serious bodily injury, if the officer reasonably believes that the person will cause death or serious bodily injury to another unless immediately apprehended. Where feasible, a peace officer shall, prior to the use of force, make reasonable efforts to identify themselves as a peace officer and to warn that deadly force may be used, unless the officer has objectively reasonable grounds to believe the person is aware of those facts.

This bill, as it pertains to security guards and officers, increases training for use of force and powers of arrest in an eye toward trauma-informed, evidence-based training modules; requires in-person training that uses role playing and other real life simulations in de-escalation training; and requires security guard and officers to be trained off-duty and compensated for training time.

5) **Argument in Support**: According to *SEIU California*, "Security officers are on the front lines of public safety every day. Across California, they protect people and property in high-rise buildings, hospitals, airports, stadiums, warehouses, and other critical infrastructure. Increasingly, they are called upon to respond to complex and high-risk situations, including de-escalating conflicts, addressing behavioral health crises, and serving as the first point of contact in emergencies. Security officer duties often include responding to incidents and critical situations, apprehending or expelling persons engaged in suspicious or criminal acts, restraining or removing trespassers, protecting people from physical attack, preventing inappropriate occurrences, confronting and detaining violators, implementing conflict management techniques to resolve issues, and de-escalating conflicts (Appendix 1, Security Job Descriptions).

"However, the reality is that many security officers are being asked to perform these duties without the training, support, or compensation necessary to safely do their jobs. As outlined in SB 1203, current training standards are insufficient to prepare officers for the dangerous and unpredictable situations they routinely face. At the same time, a shortage of law enforcement personnel has increased reliance on security officers to fill critical public safety gaps, often placing them in precarious positions without adequate preparation. This disconnect puts both workers and the public at risk.

"Security officers deserve the tools to protect themselves and the communities they serve. SB 1203 takes an important step forward by strengthening training standards, requiring meaningful, in-person de-escalation training, ensuring workers are paid for required training, and improving oversight of wages and working conditions. These reforms recognize the evolving role of security officers and begin to align expectations with reality.

"For SEIU-USWW members, this bill is about more than training requirements. It is about dignity, safety, and professionalism. No worker should be placed in harm's way without the preparation needed to respond effectively. And no community should have to rely on undertrained personnel to handle serious public safety situations. California law currently requires that security officers be trained on de-escalation. Yet, existing training requirements on de-escalation fail to ensure that officers have practiced and refined de-escalation skills before being placed in dangerous situations.

"SB 1203 acknowledges that security officers are a critical part of California's safety infrastructure and ensures they are better equipped to meet that responsibility."

6) **Argument in Opposition**: According to *Allied Universal*, "Without any clearly established need, SB 1203 drastically alters how security training is conducted and who is permitted to conduct it. The bill mandates that an 8-hour evidence-based, trauma-informed de-escalation training be taught by third-party certified organizations rather than licensed security companies, unless a valid collective bargaining agreement is in place. Additionally, the bill entitles labor organizations, upon request, to teach a two-hour training module on workers' rights. Requiring third-party organizations that lack specific expertise in providing comprehensive security officer training is costly and unnecessary. This requirement will create a massive recruitment and hiring bottleneck. By complicating the hiring process and restricting on-the-job training capabilities, the bill will drive prospective guards to seek work elsewhere, directly exacerbating the current shortage of security officers.

"In addition to the very real operational challenges, this bill will create an excessive financial burden on private security employers, which will inevitably lead to job losses. Our industry trade group has estimated the total financial impact of SB 1203 may exceed one billion dollars annually. When broken down mathematically, the new training requirements alone will cost over $534 million a year. This includes initial training costs of approximately $207 million, factoring in 360,000 guards in California at an average wage of $20 per hour taking 50 hours of training in year one (consisting of the newly increased 42 hours of security guard training and the 8-hour "Powers to Arrest" course), plus a 15% payroll tax markup. Furthermore, the bill doubles the mandatory annual refresher training from 8 to 16 hours.

"Notably, 8 of these 16 annual hours must now be dedicated to in-person, role-play de-escalation training administered by a certified third-party organization using trauma-informed techniques. Calculated at an overtime rate of $30 per hour plus payroll taxes, this refresher training adds roughly $198.7 million. Finally, relying on third-party training instructors at an estimated cost of $300 per employee would contribute another $108 million in costs.

"In addition to the costly training mandates, the bill reconstitutes the Industrial Welfare Commission (IWC) to review and increase wages specifically in the property services industry, mandating a specific wage order by June 30, 2028. Establishing a separate minimum wage for security service workers makes no sense to us; we compete for employees with lots of different industries in California. Why is our industry being set apart? This could drive very significant cost increases.

"A $1.00 per hour wage increase across 360,000 licensed officers working 2,080 hours a year would add an estimated $750 million in costs to private security employers, and that cost

would eventually be passed on to businesses and local governments in California. Faced with these sharply escalating expenses, clients will likely turn to automated non-human resources—such as cameras, fencing, and artificial intelligence—to replace human security officers, effectively making SB 1203 a job killer.

"These financial and operational pressures will result in increased costs, heighten public safety risks and likely give rise to unregulated operators. California currently faces high rates of retail theft and property crime. By making lawful, regulated security services significantly more expensive, struggling retail operators may be forced to forgo professional security services entirely. Furthermore, the intense cost pressures will incentivize unethical, unregulated providers to skip licensing requirements and operate under alternative titles like "Event Staff" or "Ushers". This proliferation of underground, unregulated personnel will jeopardize public safety during a time of heightened risk. This is especially concerning given the additional security needs for upcoming global events in California, including the 2026 FIFA World Cup, Super Bowl LXI, and the LA 2028 Summer Olympics."

7) **Related Legislation**: SB 1148 (Niello) would authorize a security guard applicant to complete all training prior to registration with BSIS. SB 1128 is pending in the Assembly Business & Professions Committee.

8) **Prior Legislation**:

   a) AB 2515 (Holden), Chapter 287, Statutes of 2022, required, among other things, PSOs and private security operators to deliver to BSIS a written report describing any physical altercation including, but not limited, to injuries or damages incurred, the identity of all participants, and whether a police investigation was conducted with a member of the public while on duty within seven business days after the incident, except as specified.

   b) AB 229 (Holden), Chapter 697, Statutes of 2021, required, among other things, that various licensees regulated by the BSIS complete a course of training in the exercise of the appropriate use of force to be issued a license or a firearms permit.

   c) AB 392 (Weber), Chapter 170, Statutes of 2019, provided, among other things, that any peace officer who has reasonable cause to believe that the person to be arrested has committed a public offense may use objectively reasonable force to effect the arrest, to prevent escape, or to overcome resistance.
   d) SB 652 (Richardson), Chapter 94, Statutes of 2025, clarified that the required power-to-arrest and appropriate-use-of-force training courses for security guard applicants must be administered and certified by a single course provider and completed within six months of applying for registration, and clarified that PPOs shall only administer and certify training to their applicants for employment and direct employees.

   e) SB 1454 (Ashby), Chapter 484, Statutes of 2024, extended the sunset date for the BSIS until January 1, 2029, and made additional technical changes, statutory improvements, and policy reforms in response to issues raised during the BSIS's sunset review oversight process.

REGISTERED SUPPORT / OPPOSITION:

Support

Seiu California (Sponsor)
California Federation of Labor Unions, Afl-cio

Opposition

Ace Secured Alliance
Aegis Security and Investigations INC.
Aegs Eagle Guard Services
Allied Universal
Alpha DES Security
Americal Patrol, INC
Armed Guard Private Security INC
Armorous Private Security
Associa Desert Resort Management
Black Box Security INC
Blue Knight Security and Patrol, INC.
Boma California
California Association of Licensed Security Agencies, Guards & Associates
California Business Properties Association
California Chamber of Commerce
Capitol Business Alliance
Centurion Security Services, INC.
Cooke and Associates, INC.
County of Kern
Cox Security Group
Crew Protection Enterprises INC.
Custom Protective Services
Customized Guard Services and Systems
Diligence Security Group
Excell Security, INC.
Global Security Concepts, INC
Guardian Security Agency
Hawk Security Group
High Rock Security
Intercept Security
John 316 Private Security
Law Security and Investigations, INC
Lead STAR Security, INC
Lions 4 Security
Metro Security Services
Militum in Terra Security, INC
Mint Security, INC
Mountain Valley Protective Services
Naiop California
Nobility Security and Maritime Solutions

North State Security
Odyssey Unlimited Security
Ontel Security Services INC
Orion Protection Services Group
Pac Protection Service
Palamerican Security
Plaza Protection
Practical Defense Systems
Praetorian USA
Principal Interest
Proguard Security Services
Prosegur Security
Resilient Protective Services and Silvercreek Academy
Restoration Security INC
Scorpion Security Services
Sdm Security Services, INC
Securitas
Security Management and Consulting International INC.
Six Maritime, INC
Southwest Patrol, INC
Svt Gruppe INC
The Gadite Group INC
Triple Threat Solutions
Vision Security Consultants INC
Western Area Security Services
Woodside Patrol

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

Date of Hearing: June 30, 2026
Counsel: Dustin Weber

ASSEMBLY COMMITTEE ON PUBLIC SAFETY
Nick Schultz, Chair

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

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

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

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

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

   b) Have been used to facilitate a crime.

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

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

   a) The search warrant may authorize seizure of either:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

15) States that any resolution of disputed issues related to a claim shall be at a court hearing, and that the court may halt proceedings at any time if it determines that it has sufficient

information to resolve the claim and issue an ordering resolving the validity of the claim, as specified.

16) Provides after all claims are resolved, the court shall issue a final, unappealable judgement forfeiting the remaining digital financial assets, ownership of which shall immediately transfer to the prosecuting agency for distribution to the victims, as specified.

17) Specifies that the government's interest in distribution to victims shall take precedence over individual claims based on constructive trust or other civil claims that individual victims may assert.

18) Requires the seized funds to be used to compensate victims of the crimes or fraud schemes underlying an action pursuant to this bill, up to the value of their actual loss, and authorizes the prosecuting agency to establish a claims procedure to include victims whose cases were not used to establish the underlying crimes or fraud schemes, subject to the following requirements:

    a) The agency shall make efforts reasonably calculated to identify and provide notice to additional victims of the crimes or fraud schemes underlying the action and inform them of the procedure to file a claim.

    b) After the expiration of the claims period, the prosecuting agency shall grant or deny each claim and determine the amount of each victim's loss for approved claims. Determinations are not subject to appeal or judicial review.

    c) Once all additional claims are adjudicated, the prosecuting agency must distribute the seized digital financial assets to those victims whose cases were used as part of the action and those additional victims whose claims are approved on a pro rata basis up to the amount of their actual loss.

19) States that if a prosecuting agency determines that a claims procedure to identify additional victims is inappropriate or impractical, the agency shall still be required to return funds to all victims whose cases were used as part of this action on a pro rata basis up to the amount of the actual loss.

20) Establishes that any digital financial assets not distributed to victims as set forth above shall be kept in the custody of the law enforcement or prosecuting agency for a maximum of three years.

21) States that jurisdiction extends to digital financial assets in any country when either of the following have been established:

    a) The possessor received a digital financial asset traceable to a crime perpetrated against a victim who was residing in California or was defrauded in this state.

    b) The possessor is a member of a conspiracy to commit money laundering and any member of the conspiracy received a digital financial asset traceable to a crime perpetrated against a victim who was residing in California or defrauded while in this state.

22) Provides that a special proceeding to recover digital financial assets may be filed in any county where any victim of the underlying crimes or fraud schemes resides or in any county where any portion of the crimes or underlying fraud schemes occurred, and may be prosecuted by a City Attorney, District Attorney, or the Attorney General.

23) Specifies that service of process may be made using one or more of the following methods:

    a) If funds are seized from an account at a centralized exchange, notice by one of the following methods shall be deemed to be sufficient notice: email, mail, or telephone, as specified.

    b) If funds are seized from a blockchain address, blockchain service may be made by sending a link to the documents using the blockchain involved in the seizure.

    c) Upon a showing that none of the listed methods of service are possible or practical, the court shall permit service by publication, or in any other means provided by law.

24) Includes legislative findings and declarations.

EXISTING LAW:

1) Governs the digital financial asset business activity of a person doing business in California or, wherever located, who engages in or holds itself out as engaging in the activity with, or on behalf of a resident, except for activity by several specified entities, and known as the Digital Financial Assets Law (DFAL). (Fin. Code, § 3101 et. seq.)

2) Provides that, as of July 1, 2026, a person shall not engage in digital financial asset business activity, or hold itself out as being able to engage in digital financial asset business activity, with or on behalf of a resident of the state unless any of the following is true:

    a) The person is licensed in this state by the Department of Financial Protection and Innovation (DFPI).

    b) The person has submitted a timely application for a license and is awaiting a decision.

    c) The person is exempt from licensure, as provided. (Fin. Code, § 3201.)

3) Authorizes the DFPI to take an enforcement measure, as defined, against a licensee or person that is not a licensee but has engaged, is engaging, or is about to engage in digital financial asset business activity with, or on behalf of, a resident, as specified. (Fin. Code, § 3403.)

4) Authorizes the DFPI to assess civil penalties for digital financial asset business activity in violation of the DFAL, as provided. (Fin. Code, § 3407.)

5) Authorizes a search warrant to be issued on specified grounds. (Pen. Code, § 1524.)

6) States that in any case in which a person is alleged to have been engaged in a pattern of criminal profiteering activity, as defined, upon a conviction of the underlying offense,

specified assets shall be subject to forfeiture upon proof of the profiteering activity. (Pen. Code, § 186.3, subd. (a).)

7) Sets forth requirements and procedures regarding a forfeiture action filed by the prosecution resulting from criminal profiteering crimes. (Pen. Code, §§ 186.4-186.8.)

8) Provides that any person who conducts or attempts to conduct a transaction or more than one transaction within a seven-day period involving a monetary instrument or instruments of a total value exceeding $5,000, or a total value exceeding $25,000 within a 30-day period, through one or more financial institutions (1) with the specific intent to promote, manage, establish, carry on, or facilitate the promotion, management, establishment, or carrying on of any criminal activity, or (2) knowing that the monetary instrument represents the proceeds of, or is derived directly or indirectly from the proceeds of, criminal activity, is guilty of the crime of money laundering. (Pen. Code, § 186.10, subd. (a).)

9) States that in consideration of the constitutional right to counsel afforded by the Sixth Amendment to the United States Constitution and Section 15 of Article I of the California Constitution, when a case involves an attorney who accepts a fee for representing a client in a criminal investigation or proceeding, the prosecution shall additionally be required to prove that the monetary instrument was accepted by the attorney with the intent to disguise or aid in disguising the source of the funds or the nature of the criminal activity. (Pen. Code, § 186.10, subd. (a).)

10) Punishes violations of the money laundering statute by imprisonment in a county jail for not more than one year or as a realigned felony punishable by imprisonment for 16 months, two years, or three years, by a fine of not more than $ 250,000 or twice the value of the property transacted, whichever is greater, or by both that imprisonment and fine. However, for a second or subsequent conviction for a violation of this section, the maximum fine that may be imposed is $500,000 or five times the value of the property transacted, whichever is greater. (Pen. Code, § 186.10, subd. (a).)

11) Provides that, for the purposes of this statute, each individual transaction conducted in excess of $5,000, each series of transactions conducted within a seven-day period that total in excess of $5,000, or each series of transactions conducted within a 30-day period that total in excess of $25,000, shall constitute a separate, punishable offense. (Pen. Code, § 186.10, subd. (b).)

12) States that in any instance where money laundering is punished as a felony, the defendant shall be subject to additional terms of imprisonment depending on the value of the transaction or transactions. (Pen. Code, § 186.10, subd. (c)(1).)

13) Specifies that any additional term of imprisonment shall not be imposed unless the facts of a transaction or transactions, or attempted transaction or transactions, of the alleged value, are charged in the accusatory pleading, and are either admitted to by the defendant or are found to be true by the trier of fact. (Pen. Code, § 186.10, subd. (c)(2).

14) Defines "blockchain technology" as a decentralized data system, in which the data stored is mathematically verifiable, that uses distributed ledgers or databases to store specialized data in the permanent order of transactions recorded. (Health & Saf. Code, § 103526.5.)

15) Defines "digital financial asset" as a digital representation of value that is used as a medium of exchange, unit of account, or store of value, and that is not legal tender, whether or not denominated in legal tender, but does not include any of the following:

    a) A transaction in which a merchant grants, as part of an affinity or rewards program, value that cannot be taken from or exchanged with the merchant for legal tender, bank or credit union credit, or a digital financial asset.

    b) A digital representation of value issued by or on behalf of a publisher and used solely within an online game, game platform, or family of games sold by the same publisher or offered on the same game platform.

    c) A security registered with or exempt from registration with the United States Securities and Exchange Commission or a security qualified with or exempt from qualifications with the department. (Fin. Code, § 3102, subd. (g).)

16) Defines "digital financial asset business activity" as any of the following:

    a) Exchanging, transferring, or storing a digital financial asset or engaging in digital financial asset administration, whether directly or through an agreement with a digital financial asset control services vendor.

    b) Holding electronic precious metals or electronic certificates representing interests in precious metals on behalf of another person or issuing shares or electronic certificates representing interests in precious metals.

    c) Exchanging one or more digital representations of value used within one or more online games, game platforms, or family of games for either of the following:

        i) A digital financial asset offered by or on behalf of the same publisher from which the original digital representation of value was received.

        ii) Legal tender or bank or credit union credit outside the online game, game platform, or family of games offered by or on behalf of the same publisher from which the original digital representation of value was received. (Fin. Code, § 3102, subd. (i).)

17) Defines a "search warrant" as a written order in the name of the people, signed by a magistrate, directed to a peace officer, commanding him or her to search for a person or persons, a thing or things, or personal property, and, in the case of a thing or things or personal property, bring the same before the magistrate. (Pen. Code, § 1523.)

18) Defines "criminal profiteering" as an act committed or attempted or a threat made for financial gain or advantage, which act or threat may be charged as a crime under several specified criminal statutes, including as embezzlement, extortion, receiving stolen property, violation of laws governing corporate securities, money laundering, offenses relating to unauthorized access to computers, computers systems, or computer data, and several others. (Pen. Code, § 186.2)

19) Defines "conduct" as including, but not being limited to, initiating, concluding, or participating in conducting, initiating, or concluding a transaction. (Pen. Code, § 186.9, subd. (a).)

20) Defines "financial institution" to include, when located or doing business in this state, a national bank, state bank, savings and loan association, foreign bank, brokers or dealers in registerable securities, businesses dealing with money orders, investment bankers, insurers, gold or other specified mineral dealers, pawnbrokers, persons involved in transferring titles of real estate and certain other properties, and specified gambling establishments, among other things. (Pen. Code, § 186.9, subd. (b).)

21) Defines "transaction" to include the deposit, withdrawal, transfer, bailment, loan, pledge, payment, or exchange of currency, or a monetary instrument, or the electronic, wire, magnetic, or manual transfer of funds between accounts by, through, or to, a financial institution. (Pen. Code, § 186.9, subd. (c).)

22) Defines "monetary instrument" to include, among other things, United States currency or coin, bank check, cashier's check, money order, stock, investment security, gold and other specified minerals. This definition does not include specified personal checks. (Pen. Code, § 186.9, subd. (d).)

FISCAL EFFECT: Unknown

COMMENTS:

1) **Sponsor**: California Department of Justice.

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

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

3) **Effect of the Bill:** SB 1208 would update the money laundering statute to include digital financial assets. It would additionally create a statutory framework to seize and force forfeiture of digital financial assets under specified conditions.

Between 2023 and 2024, the Legislature passed a trio of bills that together comprise California's DFAL, which creates a robust licensing and enforcement framework for certain cryptocurrency activities. (AB 39 (Grayson), Ch. 792, Stats. 2023, SB 401 (Limon), Ch. 871, Stats. 2023, and AB 1934 (Grayson), Ch. 945, Stats. 2024, codified at Fin. Code, § 3101 et. seq.) A "digital financial asset" is generally a digital representation of value that is not issued or backed by a government or central bank, of which cryptocurrencies are a primary subset. (Fin. Code, § 3102, subd. (g).)[1] These assets are often stored in a digital ledger known as the "blockchain," which California law defines as "a decentralized data system, in which the data stored is mathematically verifiable, that uses distributed ledgers or databases to store specialized data in the permanent order of transactions recorded." (Health & Saf. Code, § 103526.5.)

Beginning July 1, 2026, the DFAL requires companies to be licensed by the DFPI or have applied for a license to engage in digital financial asset business activity, which refers to providing services that involve the exchange, transfer, storage or issuance of digital financial assets on behalf of others. (Fin. Code, §§ 3102, subd. (i), 3201, et. seq.) The DFAL imposes extensive obligations on licensees regarding consumer disclosures, cybersecurity and data protection requirements, and minimum capital and liquidity requirements to mitigate financial risk. (Fin. Code, § 3401 et. seq.) The law also contains specific consumer protection provisions for cryptocurrency kiosk operators, including transaction limits designed to deter money laundering. (Fin. Code, § 3901 et. seq.) "Crypto kiosks" are effectively ATMs that accept or dispense cash in exchange for cryptocurrency.[2]

Layered atop this background is SB 1208, which establishes a relatively comprehensive asset forfeiture process for digital financial assets. Under this process, a law enforcement or prosecuting agency may obtain a warrant following a showing of probable cause to seize digital financial assets. The scope of the warrant may include all digital assets where money laundering can be shown, assets up to the amount of proceeds received, the amount used to facilitate crime, or the amount traceable to a crime, or assets related to crimes and victims in other jurisdictions if jurisdiction related to California is established. Law enforcement or prosecuting agencies may send a request to have digital assets frozen pending the issuance of the search warrant permitting seizure, at which point the agency must execute the warrant and seize the assets. Within 180 days of this seizure, the prosecutor may initiate a forfeiture action regarding the seized assets, and the bill establishes a claim process whereby claimants may appeal to the court that the seized assets belong to the claimant and were obtained by legitimate means. After these claims are resolved at a court hearing, ownership of the forfeited assets transfers to the prosecuting agency, which is required to distribute the assets to victims of the crimes underlying the forfeiture action or other victims it identifies.

Because the forfeiture process proposed by this bill happens without a criminal conviction and permits the seizure of digital financial assets, it is functionally a civil asset forfeiture

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[1] See also *Cryptocurrency, Digital or Virtual Currency and Digital Assets 2025 Legislation* (Sept. 11, 2025) National Conference of State Legislatures <https://www.ncsl.org/financial-services/cryptocurrency-digital-or-virtual-currency-and-digital-assets-2025-legislation> [as of June 3, 2026].

[2] *Your Bitcoin on Every Block: An Introduction to Cryptocurrency Kiosks* (May 4, 2022) National Association of Attorneys General <https://www.naag.org/attorney-general-journal/your-bitcoin-on-every-block-an-introduction-to-cryptocurrency-kiosks/> [as of June 3, 2026].

scheme. Various policy and legal concerns have been levied against civil asset forfeiture schemes. This is discussed in more detail below.

The author contends that more tools are needed to combat the increasing prevalence of crypto-related frauds, scams, and other similar financial crimes. Data suggests continued challenges exist to address digital financial crime. The Federal Bureau of Investigation's (FBI) annual internet crimes report for 2024 states, "cryptocurrency has become an enticing means to cheat investors, launder proceeds, and engage in other illicit schemes."[3] The FBI received nearly 150,000 crypto-related complaints that year, with total crypto-related losses totaling roughly $9.3 billion.[4] California ranked at the top of the list for most crypto-related complaints and financial losses of any state with 19,508 complaints and $1.4 billion in losses.[5] One scam, known as "pig butchering," where scammers gain the trust of victims to induce them to transfer crypto funds into fake projects, resulted in over $75 billion in crypto assets stolen and laundered between 2021 and 2024, much of it flowing to criminal enterprises.[6]
SB 1208 adds digital financial assets to the statute prohibiting money laundering. This would seem to suggest the bill's intent is geared towards addressing criminal activity, so it would seem natural for a criminal asset forfeiture framework to be part of the bill. Instead, SB 1208 creates what looks like a civil asset forfeiture scheme alongside, but not dependent on, a new criminal penalty. This hybrid of ideas finds some explanation in bill's findings and declarations:

> Transnational criminal organizations are targeting California residents with sophisticated internet scams using cryptocurrency to steal and launder the fraud proceeds [and] often operate from countries with limited diplomatic cooperation and are protected by government corruption. Given all of these challenges, California state and local law enforcement have limited ability to identify the individual perpetrator, extradite them, and obtain a criminal conviction. However, these organizations can be disrupted by seizing traceable proceeds of fraud and other funds they use in laundering the proceeds of fraud.

The findings and declarations section suggest there is little expectation that adding digital financial assets to the money laundering statute will lead to convictions of many of the criminal enterprises the forfeiture framework is aimed at dispossessing, but that a new civil forfeiture framework is nevertheless needed to at least disrupt these criminal enterprises. The Court has expressed concern where fines are employed "in a measure out of accord with the penal goals of retribution and deterrence." (*Harmelin* v. *Michigan* (1991) 501 U.S. 957, at fn. 9.) Among other concerns, the ability to permanently dispossess unlimited values of digital financial assets with no serious effort made at securing a criminal conviction could invite judicial scrutiny. Between the forfeiture framework proposed in SB 1208 being decidedly civil in nature and the scheme arguably not even intending for forfeitures under the bill to

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[3] Federal Bureau of Investigation: Internet Crime Report (2024) Federal Bureau of Investigation, Internet Crime Complaint Center, at p. 3 <https://www.ic3.gov/AnnualReport/Reports/2024_IC3Report.pdf> [as of June 1, 2026].
[4] *Id.*, at 35.
[5] *Id.*, at pp. 39-40.
[6] Griffin et al., *How Do Crypto Flows Finance Slavery? The Economics of Pig Butchering* (Feb. 29, 2024) <https://papers.ssrn.com/sol3/papers.cfm?abstract_id=4742235> [as of June 1, 2026].

have a retributive or deterrent effect because civil asset forfeiture is not aimed at people, SB 1208 may create interpretive uncertainty.

4) **Practical Concerns:** Given the challenges associated with prosecuting entities engaged in cryptocurrency scams, a civil forfeiture approach may be the only viable method of providing restitution to the victims of fraudulent schemes. Yet, even if this approach is a realistic one, there remain numerous practical and legal concerns.
The author seems to acknowledge the difficulty of securing a criminal conviction in cases involving digital financial assets due to the complex and transnational components common to these crimes. Similar difficulties almost assuredly will arise during the process of attempting to force forfeiture of digital assets. While certain exchanges and the tracking of assets will be relatively straightforward, like working with Binance or tracking certain activity on the blockchain, investigators nevertheless may face great difficulty in trying to access data on crypto exchanges. Even in the case of a cooperative exchange, out-of-state companies ultimately may prove obstinate or inaccessible. Counsel for these companies may caution against involvement. Internationally based companies could be entirely untouchable, particularly without cooperation or intervention from the federal government and California's current relationship with the federal government remains understandably strained. It is unclear whether California courts even have the authority to exercise their power to force seizure or dispossession of digital assets that may be accessible but do not explicitly reside within California's borders. If the primary purpose of the bill is to return assets to those from whom they have been stolen, then the volatility of digital financial assets may render many investigations unprofitable as certain assets may have significant value one day and no value the next. The ability to turn digital assets into hard currency and/or precious metals may create difficulties fully tracing the assets from victim to recovery. The complexity of certain investigations may create outsized financial and resource burdens, particularly on local agencies.

   Given the practical challenges with recovering these assets, in combination with California's jurisdictional limitations, an unusually great number of things may have to go right to achieve the bill's desired outcomes.

5) **Jurisdiction**: The question of jurisdiction is foundational to a sovereign's exercise of legal power or authority over a person or property.[7] The power of our courts to decide cases and issue orders, like warrants, is an essential element of jurisdiction.[8] Without clear jurisdiction California cannot exercise its authority to issue warrants that would seize digital financial assets. SB 1208 at least seems to acknowledge these challenges in the findings and declarations, including by stating an intent to "permit jurisdiction to the maximum extent permissible under the United States Constitution and Section 40.010 [sic] of the Code of Civil Procedure." The uncertain legal questions around digital financial assets, arguably conflicting federal law on jurisdiction, and the potentially sprawling nature of these investigations means jurisdictional issues may provide another relatively burdensome hurdle to seizure and forfeiture of fraudulently acquired digital assets.

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[7] *Jurisdiction*, Cornell Law School Legal Information Institute <https://www.law.cornell.edu/wex/jurisdiction> [as of June 3, 2026].
[8] *Ibid.*

California courts have stated that "statutes imposing forfeitures are disfavored and are to be 'strictly construed in favor of the persons against whom they are sought to be imposed.'" (*People v. Superior Court (Plascencia)* (2002) 103 Cal.App.4th 409, 418; see also *People v. $28,500 United States Currency* (1996) 51 Cal.App.4th 447, 462.) Standing to challenge forfeiture is a question of law that our courts have found includes jurisdictional challenges. (*Plascencia, supra*, at p. 425.) Where a jurisdictional issue is detachable from the merits of a case, the court is permitted to determine jurisdiction and is "free to hear evidence regarding jurisdiction and to rule on that issue prior to trial, resolving factual disputes where necessary. . . ." (*Ibid.*) "[D]isputed material facts will not preclude the trial court from evaluating for itself the merits of jurisdictional claims." (*Plascencia, supra,* at p. 429; see also *Roberts v. Corrothers* (9th Cir. 1987) 812 F.2d 1173, 1177.)

A misleading or inaccurate description of the value of the disputed property in serving notice amounts to defective notice and thus, no jurisdiction for the court. (*Cuevas v. Superior Court* (2013) 221 Cal.App.4th 1312, 1328-29.) While our civil statutes permit a defendant to challenge jurisdiction at any stage of a civil case (Cal. Civ. Proc. Code, § 418.10) and our laws suggest certain jurisdictional challenges are valid at any stage of criminal proceedings (Pen. Codes, §§ 777-782), it is still debatable whether effective service may be rendered to non-US claimants under this framework. Even though the bill's forfeiture framework is directed only at property, the forfeiture proceeding employed in SB 1208 is referred to as "a special proceeding of a *criminal nature*." This is important both as a matter of how legal rights may be exercised but also because civil asset forfeiture is a *civil* proceeding that operates under the legal fiction that property is the guilty party, which tries to detach the inherent connection between persons and property. In other words, civil asset forfeiture authorizes dispossession of property without needing to link a person's alleged criminal activity and the property's alleged criminal activity. But in every California forfeiture scheme, including SB 1208, some sort of claims process for alleged owners is in place because it is really not possible in this context to delink property from an owner.

Property in our laws almost always assumes an owner. Regardless of whether that owner is an entity or person, ownership is foundational to how most property laws are made, understood, and administered. Imagine a dispute over a sale of property without competing owners or a dispute over property in a marriage dissolution without the couple. Yet, SB 1208 asks us to enshrine into law a mechanism that would allow state and local governments to take property, in this case digital financial assets, where that mechanism is evaluating only whether the property was involved in criminal activity. Admittedly, guardrails are present in SB 1208 that mandate some notice requirements, a claims process for alleged owners, and judicial oversight over the proceedings. But it is unclear whether this mechanism, even with the guardrails, is sufficiently protective of others who may have a lawful and innocent interest in the disputed assets.

Moreover, federal statute may give exclusive federal jurisdiction to federal courts for forfeiture of assets located outside the US, though arguably this jurisdiction "exclusive of the courts of the States" only attaches if the claim is brought under an act of Congress. (28 U.S.C. § 1355.) The US Supreme Court more than a century ago started holding that the Fourteenth Amendment restricts States' ability to adjudicate cases involving conduct beyond their borders. (*Fuld v. PLO* (2025) 606 U.S. 1; see also, e.g., *Baker v. Baker, Eccles & Co.*, 242 U. S. 394, 403 (1917). The Court in *Fuld*, which involved transnational jurisdictional

issues noted, "[t]he Constitution confers upon the Federal Government—*and it alone*—both nationwide and extraterritorial authority. (*Fuld, supra*, at p. 11 [italics added].)
SB 1208 raises other questions. The bill provides that a warrant for digital financial assets may authorize seizure of "substitute assets," but does not define this term or impose any requirement that there be some nexus between the substitute assets and the original target assets. Authorization to seize and disgorge substitute assets appears at least somewhat common in other forfeiture contexts like prosecuting drug rings, but forfeiture under state law in those cases generally requires an underlying conviction. SB 1208 does not require an underlying conviction. In the context of drug prosecutions, a boat used in the illegal smuggling of drugs may be logically substituted by an asset like a car. Substitute assets in the context of digital financial assets may not be so clear. Delineating the outer bounds of substitute assets in this context may be beneficial to ensure that only assets related to criminal activity are seized.

6) **Money Laundering:** Money laundering describes the process of concealing the origin of money obtained from illicit activities to make the source of such funds appear legitimate.[9] California's anti-money laundering statute, however, prohibits more than simply attempting to conceal the nature of ill-gotten assets. Our laws criminalize the act of conducting or attempting to conduct one or more financial transaction through a financial institution involving one or more monetary instruments with a value of at least $5,000 within a seven-day period (or $25,000 within a 30-day period) when the defendant either 1) has the specific intent to promote criminal activity or 2) knows that the funds are the proceeds of criminal activity. (Pen. Code, § 186.10.) Existing law defines "monetary instrument" as United States and foreign currency, checks, money orders, gold, silver, platinum, specified gemstones, stocks, bearer bonds, investment securities, and other types of financial assets. (Pen. Code, § 186.9, subd. (d).) The crime of money laundering is punishable as an alternate misdemeanor/felony, and the statute provides for several sentencing enhancements when the underlying crime is punished as a felony, and where the value of the transactions meets specified thresholds. (Pen. Code, § 186.10, subd. (c).)
SB 1208 expands section 186.10 of the Penal Code to include transactions or attempted transactions involving digital financial assets, as defined in the DFAL. Cryptocurrency transactions largely occur outside the traditional banking system and are traded on "cryptocurrency exchanges," which act as a marketplace for digital assets similar to a stock exchange.[10] The bill's inclusion of digital financial asset transactions into the money laundering statute, in conjunction with the noted volatility of digital financial assets, may raise concerns over the application and effectiveness of the statute's tiered enhancement scheme. (Pen. Code, § 186.10., subd. (c).) Also, given the apparent focus on victim restitution in this bill, having a clear understanding of the precise values of these volatile assets at specific points in time could be important.

7) **Asset Forfeiture:** Forfeiture is a legal process that government can use to seize and dispossess property connected with criminal activity.[11] Depending on certain factors, like the

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[9] *What is money laundering?* United States Treasury Financial Crimes Enforcement Network <https://www.fincen.gov/what-money-laundering> [as of June 3, 2026].
[10] Maheshwari, R. *What are crypto exchanges and how do they work?* (Nov. 5, 2024) *Forbes* <https://www.forbes.com/advisor/in/investing/cryptocurrency/what-is-a-crypto-exchange/> [as of June 1, 2026].
[11] *Civil forfeiture*, Cornell Law School Legal Information Institute <https://www.law.cornell.edu/wex/civil_forfeiture> [as of June 3, 2026].

legal nature of the proceeding providing for forfeiture, the process is considered either civil forfeiture or criminal forfeiture.[12] Civil forfeiture proceedings are *in rem*, which means they are brought against the property, not a person.[13] Cash proceeds from a drug deal, for example, may be seized and forfeited in civil forfeiture proceedings if the government can show by the defined evidentiary standard that the property was involved in illicit activity. This makes obvious sense in the context of drugs as property interests cannot be established in contraband.

Supporters of asset forfeiture argue that this process allows law enforcement to disrupt criminal activity by restricting access to assets that may otherwise be used in crime, which would make those assets contraband.[14] Civil asset forfeiture has allowed the government to seize and keep cash, cars, real estate, and any other property suspected of being connected to criminal activity even if the owner is never convicted of a crime.[15] For this reason, civil forfeiture schemes have drawn sharp criticism, with critics arguing that these schemes incentivize policing for profit.[16] Importantly, however, SB 1208 does appear to focus returning recovered funds to victims over authorizing funds to go to the government. This helps moot the concern over policing for profit.

Criminal asset forfeiture proceedings, however, are *in personam*, which means they are brought against people.[17] They generally require an underlying criminal conviction, which requires meeting the beyond a reasonable doubt evidentiary standard before government can force forfeiture of property.[18] The property forfeited is generally limited to those assets that can be shown to have a connection to the underlying crime(s).[19] Here, the proceeding to force dispossession of property generally occurs only after a criminal conviction has been established.[20] While SB 1208 does attempt to legislate out the risk of creating perverse incentives by limiting where forfeited assets can be sent various concerns remain.

8) **Inconsistency with State Asset Forfeiture Frameworks:** The California Control of Profits of Organized Crime Act (hereinafter CPOC) sets forth the asset forfeiture procedure for property and proceeds acquired through a pattern of criminal profiteering activity. (Pen. Code, §§ 186-186.8.) Under CPOC, the prosecuting agency can seek forfeiture of any property interest whether tangible (such as buildings, real property, and vehicles) or intangible (such as life insurance policies and shares of a company) acquired directly or indirectly through a pattern of criminal profiteering activity and all of the proceeds of a pattern of criminal profiteering activity, including all things of value that may have been received in exchange for the proceeds immediately derived from the pattern of criminal profiteering activity. (Pen. Code, § 186.3.) The forfeited assets are typically distributed to the State's General Fund, and/or the local governmental entity, whichever prosecutes, and

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[12] *Ibid.*
[13] *Ibid.*
[14] *Ibid.*
[15] *Ibid.*
[16] *Ibid.*
[17] *Ibid.*
[18] *Ibid.*
[19] *Ibid.*
[20] *Ibid.*

existing law provides little to no direction for the use of such funds. (*Ibid.*) The forfeiture process under CPOC clearly represents a criminal asset forfeiture scheme.
Changes to asset forfeiture in drug crimes were also made by SB 443 (Mitchell), Chapter 831, Statutes of 2016. SB 443 generally requires a prosecuting agency to seek or obtain a criminal conviction for defined drug crimes to secure forfeiture of related assets. (Health & Saf. Code, § 11471.2, subd. (b); *cf.* Health & Saf. Code, § 11471.2, subd. (c).) Additionally, SB 443 increased the burden of proof in forfeiture proceedings from a clear and convincing evidence standard to beyond a reasonable doubt standard. (Health & Saf. Code, § 11488.4, subd. (i)(1).) Like asset forfeiture in the context of certain crimes involving controlled substances, asset forfeiture in the context of criminal profiteering requires an underlying conviction to dispossess assets from individuals. (Pen. Code, § 186.3, subd. (a).)

Given the statutory requirements for underlying convictions required for asset forfeiture in other parts of California law like criminal profiteering activities and specified drug crimes, SB 1208 stands out as inconsistent with California's approach to asset forfeiture. Furthermore, because criminal profiteering is defined to cover so many acts, including receiving stolen property (Pen. Code, § 186.2, subd. (a)(13)), false or fraudulent activities (Pen. Code, § 186.2, subd. (a)(21)), and notably, money laundering (Pen. Code, § 186.2, subd. (a)(22)), SB 1208 could effectively modify the requirements for securing criminal convictions to dispossess someone of assets for numerous criminal profiteering crimes beyond just money laundering.

9) **Constitutional Concerns**: SB 1208 presents several constitutional concerns. This is due in part to the potential consequences arising from the bill, the lack of relative clarity in the law that guides the constitutional bounds of the issues stemming from this bill, and the existence of both standing alone and intersecting constitutional issues.
a) The Fourth Amendment: The Fourth Amendment of the United States Constitution provides that "the right of the people to be secure in their persons, houses, papers and effects, against unreasonable searches and seizures, shall not be violated, and no warrants shall issue, but upon probable cause, supported by oath of affirmation, and particularly describing the place to be searched, and the persons or things to be seized." (U.S. Const., 4th Amend.) The Fourth Amendment protects people and extends to areas where an individual has a reasonable expectation of privacy. (*Carpenter v. United States* (2018) 585 U.S. 296.) States are required to comply with the Fourth Amendment because the Fourteenth Amendment's Due Process Clause incorporates to the States the protections afforded by the Fourth Amendment. (*Wolf v. Colorado* (1949) 338 U.S. 25 [recognizing the rights against unreasonable search and seizure are implicit to our concept of liberty], *Mapp v. Ohio* (1961) 367 U.S. 643 [incorporating the Fourth Amendment to States.].) Pursuant to the Fourth Amendment's protections against unreasonable searches and seizures, law enforcement generally must secure a warrant before conducting a search of private property. A seizure of property occurs whenever "there is some meaningful interference with an individual's possessory interests in that property." (*United States v. Jacobsen* (1984) 466 U.S. 109, 113.)

California law states that when property is alleged to have been stolen or embezzled, law enforcement must retain custody of that property pending the disposition of any court proceedings. (Pen. Code, § 1407.) A search warrant requires probable cause that identifies or describes the person to be searched or property to be seized, and the particular facts *supporting an underlying crime*. (Pen. Code, § 1525.) SB 1208 authorizes seizure and subsequent forfeiture by simply establishing a probable nexus to "a crime." In fact, because

this bill's forfeiture framework is effectively civil, a person really does not need to be involved in a crime at all. Just demonstrating that *the property* was likely involved in "a crime" is likely sufficient to dispossess a person of digital assets under this framework.

SB 1208 at least does appear to create an opportunity for an innocent owner to recover their property. This is certainly an important guardrail, but individual rights in the Constitution, including those rights contained in the Fourth Amendment, limit the powers of government and expressly protect individuals from government interference.[21] SB 1208 may offer an essential backstop to ensure lawful property owners are not ultimately dispossessed of their property, but this backstop is triggered only because government power will have been expanded and interference will have already occurred. Whether that interference is constitutionally justifiable is unclear.

b) The Fifth Amendment: The Fifth Amendment generally states that government may not take private property without just compensation. (U.S. Const., 5th Amend.) Known as the Takings Clause, States are required to compensate a property owner if property is taken. (*Chicago, Burlington & Quincy Railroad Co. v. City of Chicago* (1897) 166 U.S. 226.) The Takings Clause is implicated by SB 1208 because digital financial assets are property and the dispossession of this property authorized by the bill would be done by governmental agencies.

The Court has ruled that the Fifth Amendment generally does not require governments to compensate property owners for that property taken via asset forfeiture. (See *Bennis v. Michigan* (1996) 516 U.S. 442.) As noted by our Ninth Circuit Court of Appeals, however, this ruling was effectively overturned by the Civil Asset Forfeiture Reform Act (CAFRA), passed by Congress in 2000. (See 18 U.S.C. § 983(d)(1), *United States v. Ferro* (9th Cir. 2012) 681 F.3d 1105, 1112.) The court in *Ferro* wrote that "with this [law], Congress ensured that modern-day forfeiture differs from historical forfeiture, since the Supreme Court earlier noted a 'long and unbroken line of cases' which had previously held that, under certain historical forfeiture provisions, 'an owner's interest in property may be forfeited by reason of the use to which the property is put even though the owner did not know that it was to be put to such use.'" (*Ferro, supra*, at p. 1112.) It is unlikely, though ultimately unclear, whether SB 1208 will encounter Fifth Amendment scrutiny.

Importantly, CAFRA appears to govern only federal forfeiture actions and does not preempt states from also regulating in this area. The federal Bank Secrecy Act (BSA), however, does preempt state regulation in certain areas. (See 12 U.S.C. §§ 1829b, 1951-1960, 31 U.S.C. §§ 5311-5314, 5316-5336.) Article VI of the Constitution states that federal law is the supreme law of the land and it is this provision that precludes state regulation in areas where preemption is clearly established. (U.S. Const., art. VI, cl. 2.) Congressional intent is the touchstone of a preemption analysis. (*Wyeth v. Levine* (2009) 555 U.S. 555, 565.) It is unlikely that statutory preemption would be an issue with SB 1208 as the BSA is generally focused on reporting requirements to identify money laundering, while SB 1208 is focused on expanding the assets subject to the money laundering statute and how those assets can be forfeited.

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[21] Laurence H. Tribe. *American Constitutional Law*, 3rd ed., at p. 10 (2000).

c) The Fourteenth Amendment: The Fourteenth Amendment prohibits States from depriving individuals of life, liberty, or property without due process of law. (U.S. Const., 14th Amend.) Under the Due Process Clause of the Fourteenth Amendment, States ordinarily may not seize real property before providing procedural due process protections like clear notice and a hearing before a neutral arbiter. (*United States* v. *James Daniel Good Real Property* (1993) 510 U.S. 43, 62.)

California law provides additional restrictions on how government can treat seized or forfeited property. When property is not alleged to have been stolen or embezzled by a person, but rather is just "property stolen or embezzled," and the property is in the possession of law enforcement or the court, Penal Code sections 1409-1411 provide that the magistrate who has custody of the property "shall order it delivered to the owner upon satisfactory proof of ownership, and when reasonable notice and an opportunity to be heard have been given to the person from whom the property was taken." (*People v. Superior Court (McGraw)* (1979) 100 Cal.App.3d 154, 156.))

SB 1208 undoubtedly establishes due process mechanisms, but the bill arguably creates a constitutionally suspect inversion of seizure and dispossession authority. In other words, requiring a person in possession of digital financial assets to prove they are the rightful and innocent owner of such assets before ever being convicted or even accused of a crime could invite constitutional scrutiny.

d) The Sixth Amendment: The Sixth Amendment, among other things, guarantees the right to competent, effective counsel. (U.S. Const., 6th Amend.) The Sixth Amendment usually grants defendants a fair opportunity to acquire their counsel of choice. (*Powell v. Alabama* (1932) 285 U.S. 29, 53.) Securing the assistance of counsel often requires fungible resources like money and assets. Thus, "the Sixth Amendment guarantees a defendant the right to be represented by an otherwise qualified attorney whom that defendant can afford to hire." (*Luis v. United States* (2016) 586 U.S. 5, 12.) To this end, the Court held that the pretrial restraint of legitimate, untainted assets needed to retain counsel of choice violates the Sixth Amendment. (*Ibid.*) Critically, our courts have noted that claimants in civil forfeiture proceedings have both a statutory and a constitutional right to a jury trial on civil in rem forfeiture proceedings. (See, e.g., Health & Safety Code, § 11488.5, subd. (c)(2); Cal. Const., art. I, § 16; *People v. One 1941 Chevrolet Coupe* (1951) 37 Cal.2d 283, 300, *Plascenia, supra,* at p. 418.)

Certain investigations that lead to seizures and dispossessions authorized under SB 1208 could create conflict with this holding. Is SB 1208's forfeiture proceeding legally sufficient given the requirements demanded by our Constitution and courts? Also, should the property acquired by the government under this bill lead to criminal charges that property may be required to be held if that property is needed by the criminal defendant to retain counsel of their choice for their defense. This hurdle could slow or halt what appears to be the primary intent of the bill—the return of lost assets to victims. Of course, some of these issues may be able to be sidestepped by simply not ever prosecuting those involved with the scams, even if all relevant laws and the facts of the investigation permit such a prosecution. But that approach could run into conflict with the US Supreme Court admonition in *Harmelin* that criminal fines should be in accord with the penal goals of deterrence and retribution. (*Harmelin* v. *Michigan* (1991) 501 U.S. 957, at fn. 9.)

e) The Eighth Amendment: The Eighth Amendment protects individuals against excessive fines, and cruel and unusual punishment. (U.S. Const., 8th Amend.) The Court incorporated the Excessive Fines Clause to the States in a case where the State of Indiana sought civil forfeiture of an individual's SUV on the ground it had been used to transport contraband. (*Timbs v. Indiana* (2019) 586 U.S. 146.) While the Court remanded on the question of whether a vehicle valued at $42,000 was excessive relative to a criminal penalty with a maximum fine of $10,000, the Court reaffirmed that the Eighth Amendment limits the government's power to extract payments, whether in cash or in kind, as punishment for some offense. (*Id.* at p. 151.) The Court also restated that in situations where governments stand to benefit "it makes sense to scrutinize governmental action more closely." (*Id.* at p. 154.)

As previously mentioned, Congress passed CAFRA not just to abrogate the Court's decision in *Bennis*, but to incorporate guidelines to review forfeitures for proportionality, which largely tracks Eighth Amendment Supreme Court precedent. (*Ferro, supra*, at p. 1112.) Under the law, "a court should compare the forfeiture to the 'gravity of the offense,' and the claimant then has the burden of establishing the forfeiture is 'grossly disproportional' to the offense." (18 U.S.C. § 983(g)(2)-(3); see also *Ferro, supra.*) If the court establishes that the forfeiture is grossly disproportional to the offense, it must "reduce or eliminate the forfeiture as necessary to avoid a violation of the Excessive Fines Clause of the Eighth Amendment of the Constitution." *(Ibid.)*

The asset forfeiture scheme authorized by SB 1208 thus could run into Eighth Amendment problems if the forfeitures result in a value grossly disproportionate to the penalties of an offense that ends up being prosecuted following the forfeiture. The slender reed upon which civil asset forfeiture rests can be problematic in various ways. Given the concerns, it is worth considering whether it is wise to reinstate a legal process that may be constitutionally dubious and is too often inherently inconsistent.

10) **Argument in Support**: According to the bill's sponsor, *California Department of Justice*, "Attorney General Bonta . . . urges your support for this legislation to enhance the ability of state and local law enforcement to combat the rapidly expanding scourge of cryptocurrency scams and, just as importantly, help return cryptocurrency (also known as "digital financial assets") to the victims of such fraud.

"'Pig butchering,' a cryptocurrency scam wherein scammers manipulate and gain the trust of potential victims to induce them to transfer funds into fake cryptocurrency projects, has been estimated to result in over $75 billion dollars stolen and laundered via cryptocurrency from 2021 to 2024 nationwide.0F1 In 2025, 116,414 California victims reported over $3.67 billion lost to scams, ranking first among states for both number of victims and overall loss amount in the FBI's annual Internet Crime Report.1F2 In short, cryptocurrency fraud is a serious threat to public safety that is only growing worse, and victims of crypto scams are far too often unable to recover their losses and be made whole again.

"Existing seizure laws require a criminal conviction for the forfeiture of fraud proceeds. When it comes to cryptocurrency scams, however, prosecutors are limited in their ability to identify individual perpetrators, extradite them, and obtain a criminal conviction because these scammers are often part of transnational criminal organizations located overseas, protected by government corruption, or both. In such cases when the perpetrators are effectively beyond the reach of state and local law enforcement, it is much more difficult to

effectuate the legal seizure and remission of stolen assets back to the victims of the fraud if a criminal conviction is a precondition.

"To modernize the law for the cryptocurrency age, SB 1208 will provide statutory authority to CA prosecutors to initiate a special proceeding of a criminal nature to seize cryptocurrency wallets and exchange accounts being used to launder fraud proceeds. This provides prosecutors with a much-needed tool to seize and return digital financial assets to victims of cryptocurrency fraud that does not require a criminal conviction, which is difficult for the reasons previously described. At the same time, SB 1208 provides robust due process protections, including specific criteria for obtaining a search warrant and due process for claimants to file a verified claim for the return of the seized property.

"Existing law also needs to be updated to make it easier to facilitate the return of digital financial assets to victims of cryptocurrency fraud. To the extent that current law provides for the return of stolen cryptocurrency, prosecutors must do so by proving that one victim is the true owner of the specific cryptocurrency that was seized. However, commingling and money laundering can make it difficult to prove which specific victim is the owner of the cryptocurrency, particularly when investigating multi-victim fraud schemes and organized money laundering.

"To address this, SB 1208 provides a mechanism to return seized cryptocurrency to identifiable victims of crime based on proof of the crime and the loss to the victims, rather than requiring proof of ownership through commingling. The bill requires digital assets recovered from seized cryptocurrency accounts to be used to compensate victims of the crimes or fraud, on a pro rata basis, up to the amount of their actual loss, and victims of similar or related crimes or frauds.

"SB 1208 is urgently needed legislation that will help law enforcement to disrupt the operations of criminal groups and scammers committing crypto fraud and better enable prosecutors to legally seize and return digital financial assets to Californian victims. For these reasons, Attorney General Bonta requests your support for SB 1208 to strengthen protections against cryptocurrency fraud and help make victims of such fraud whole again."

11) **Argument in Opposition**: According to the *California Public Defenders Association*, "The California Public Defenders Association (CPDA), a statewide organization of public defenders, private defense counsel, and investigators, regrets to inform you that we oppose Senate Bill 1208 ("SB 1208") by Senator Grayson unless it is amended to provide guardrails to prevent the abuse of the money laundering statute against unbanked indigent individuals.

"Although the goal of combating transnational fraud and cryptocurrency-based money laundering is well intentioned, SB 1208 inadvertently creates a tool that will be misused against drug users and low level drug dealers and others who are unbanked and use cryptocurrency in place of cash resulting in more pretrial detention, greater disparity in plea bargaining and longer sentences.

I. The Amended Bill and Its Stated Purpose

"As amended, SB 1208 does two things: it expands the crime of money laundering under Penal Code section 186.10 to cover transactions in digital financial assets, and it creates a

new civil forfeiture mechanism in section 186.13 aimed at transnational criminal organizations. Our objection is solely to the section 186.10 amendment.

"The legislative findings state that the bill's target is sophisticated transnational fraud – organized networks operating from countries beyond the reach of California courts, using cryptocurrency to launder proceeds of internet scams and human trafficking. That is a legitimate and serious problem. The problem is that the statutory mechanism chosen to address it reaches conduct far removed from that target and will disproportionately impact economically disadvantaged individuals who do not have access to the banking system and are increasingly using cryptocurrency instead of cash.

II. The Practical Problem: Section 186.10(b) as a Charging Leverage Tool

"The amended section 186.10(b) provides that each series of digital asset transactions within a seven-day period totaling over $5,000 – or over $25,000 within thirty days – constitutes a separate, punishable felony offense. For the transnational fraud operator this bill targets, that provision is appropriate and workable. For the street-level defendant who uses cryptocurrency as a payment substitute, it creates an additional felony charge that has nothing to do with concealment, layering, or the evasion of financial oversight.

"As public defenders, we represent individuals who are low-level drug dealers who may have made six cryptocurrency payments to a supplier over five days totaling $5,400. They are using cryptocurrency in place of cash. The cryptocurrency was transferred directly from them to their dealer. No financial institution was used. No concealment structure was employed. "There was no layering, no smurfing, no attempt to disguise the origin of funds. Under existing law, they would be charged with sales or possession for sales and face up to 5 years imprisonment. Under SB 1208, the prosecution could also charge them with money laundering and they would face an additional 4 years incarceration.

"This is not a theoretical concern. The separate-offense aggregation mechanism in section 186.10(b) functions in practice as a charging multiplier. A district attorney who can stack a money laundering count onto an existing drug charge has substantially increased bargaining leverage in plea negotiations, regardless of whether the facts would ever support a money laundering conviction at trial. Individuals facing additional felony exposure – particularly those with prior strikes or facing immigration consequences – resolve cases differently than individuals facing the underlying charge alone. The result is that marginal crypto use in an otherwise ordinary drug case becomes a vehicle for increased sentences.

"A parallel concern arises in cases involving sex work, particularly online platforms where digital payments are used for discretion or accessibility rather than concealment. The "knowing" prong of section 186.10(a) – which reaches conduct where the actor knows the funds represent the proceeds of criminal activity – can plausibly reach the ordinary receipt of payment for already-criminalized conduct, effectively layering a separate money laundering felony onto prosecuted conduct without any showing of the sophistication or concealment intent the statute was designed to reach.

III. The Proposed Amendment Addresses This Problem Without Undermining the Bill's Purpose

Proposed SB 1208 Amendment – PC § 186.10, Subdivision (f)

Section 186.10 of the Penal Code is amended to add subdivision (f), to read:

186.10.

(f)(1) Notwithstanding subdivision (a), no person shall be prosecuted under this section solely on the basis of conducting or attempting to conduct a digital financial asset transaction, as defined in Section 3102 of the Financial Code, where all of the following conditions are met:

(A) The transaction or transactions were conducted by the person solely on their own behalf and not as a business, service, or intermediary for any third party; and

(B) The person did not receive direct financial compensation, fee, or other remuneration in exchange for conducting the transaction on behalf of another.

(2) This subdivision shall not apply where the prosecution establishes, by evidence independent of the transaction itself, that the person acted with the specific intent described in subdivision (a) or had actual knowledge that the digital financial asset directly and specifically represented the proceeds of criminal activity.

(3) For purposes of this subdivision, the aggregation of digital financial asset transactions to meet the threshold values set forth in subdivision (f)(1)(B) shall not be permitted unless the prosecution establishes by independent evidence that the transactions were conducted pursuant to a common scheme or plan to evade the thresholds of this section.

(4) Nothing in this subdivision shall be construed to:

(A) Provide a defense to any other criminal offense for which the underlying conduct may otherwise qualify;

(B) Immunize any person from civil forfeiture proceedings conducted pursuant to Chapter 8 (commencing with Section 186.2) where independent probable cause exists; or

(C) Limit the authority of any state or local agency to investigate suspected violations of this section or to seek records pursuant to lawful process.

"CPDA's proposed amendment addresses this concern by adding subdivision (f) to section 186.10, establishing guardrails to prevent the unintended further criminalization of individuals making digital asset transactions solely on their own behalf and without intermediary compensation. The proposed amendment contains two essential limiting conditions: (A) the transactions must be conducted solely for the person's own account and not as part of a business or intermediary service; and (B) the person must not have received compensation for conducting the transaction on behalf of another. In other words, the individual is using the cryptocurrency in place of cash or a credit card.

"Critically, these guardrails would not be available where the prosecution establishes by independent evidence that the person acted with the specific intent described in subdivision (a) or had actual knowledge that the digital assets directly and specifically represented criminal proceeds. Moreover, the proposed guardrails do not apply where aggregation is supported by independent evidence of a common scheme or plan to evade reporting thresholds. Finally, these guardrails do not provide a defense to any other criminal offense, immunize any person from civil forfeiture, or limit any agency's investigative authority.

"The guardrails thus directly align the statute's reach with its purpose. A transnational fraud operator moving hundreds of thousands of dollars in cryptocurrency through layered accounts does not benefit from the guardrails. A street-level drug user or dealer who used Bitcoin as a cash substitute in six small drug transactions over one week does. That distinction is exactly the one the Legislature should want to preserve with the purpose of the money laundering statute.

"For these reasons, on behalf of CPDA, we respectfully urge your "NO" vote when SB 1208 comes before you in the Assembly Public Safety Committee unless it is amended to address these issues."

12) **Related Legislation**:

a) AB 2285 (Valencia) would regulate a bank or a credit union under the examination authority of the Department of Financial Protection and Innovation (DFPI) with respect to its provision of digital asset custody services, staking services, and digital asset transaction services, as those terms are defined, including by requiring certain disclosures to customers and requiring certain financial safety measures. AB 2285 is pending hearing in the Assembly Banking & Finance Committee.

b) AB 2409 (Valencia) would prohibit a public officer and specified public employees, as those terms are defined, from issuing a meme coin, among other things. AB 2409 is pending referral in the Senate Rules Committee.

13) **Prior Legislation**:

a) SB 97 (Grayson), of the 2025-2026 Legislative Session, would have revised certain criteria of the DFAL to specify that a person who has submitted an application to engage in the business of digital financial assets is prohibited from engaging in that business until the person is licensed, among other things. SB 97 was ordered to the inactive file on the Assembly floor.

b) AB 1029 (Valencia), Chapter 85, Statutes of 2025, expand the definition of "investment" for purposes of the Political Reform Act of 1974 to include a digital financial asset, and would specifically require public officials to disclose interests in their digital financial assets, as specified.

c) AB 236 (Chen), of the 2025-2026 Legislative Session, would have prohibited the fee attached to an application to engage in digital financial asset business activities from exceeding $5,000. AB 236 was held in the Assembly Appropriations Committee.

d) AB 1118 (Chen), of the 2025-2026 Legislative Session, would have would have allowed a search warrant for stolen or embezzled currency, as specified, to include an order for such-currency to be returned to a lawful owner identified in the warrant pursuant to specified procedures including a hearing, if requested, to determine that the currency was stolen or embezzled, before it is returned to its owner.

e) AB 1934 (Grayson), Chapter 945, Statutes of 2024, required a licensee to also maintain, if applicable, a report maintained at least monthly that demonstrates compliance with conditions that authorize the licensee to exchange, transfer, or store a digital financial asset or engage in digital financial asset administration, as specified.

f) SB 401 (Limon), Chapter 871, Statutes of 2023, provided for the regulation of digital financial asset transaction kiosks, as defined, by DFPI and would, among other things, prohibit an operator from accepting or dispensing more than $1,000 in a day from or to a customer via a digital financial asset transaction kiosk.

g) AB 39 (Grayson), Chapter 792, Statutes of 2023, prohibited a person from engaging in digital financial asset business activity, or holding itself out as being able to engage in digital financial asset business activity, with or on behalf of a resident unless certain criteria are met, including the person is licensed with DFPI, as prescribed.

h) AB 76 (Davies), of the 2023-2024 Legislative Session, would have modified the definition of "monetary instrument" to include "digital assets that use blockchain technology," as specified. AB 76 was held in the Senate Appropriations Committee.

i) AB 2269 (Grayson), of the 2021-2022 Legislative Session, would have created the DFAL, which would have prohibited a person from engaging in digital financial asset business activity, or holding itself out as being able to engage in digital financial asset business activity, with or on behalf of a resident unless any of certain criteria are met, including the person is licensed with the DFPI, as prescribed. AB 2269 was vetoed by the Governor.

j) SB 443 (Mitchell), Chapter 831, Statutes of 2016, required, among other things, a prosecuting agency to seek or obtain a criminal conviction for the unlawful manufacture or cultivation of any controlled substance or its precursors prior to an entry of judgment for recovery of expenses of seizing, eradicating, destroying, or taking remedial action with respect to any controlled substance.

REGISTERED SUPPORT / OPPOSITION:

Support

California Department of Justice (Sponsor)
Arcadia Police Officers' Association
Brea Police Association
Burbank Police Officers' Association
California Association of School Police Chiefs
California Bankers Association
California Coalition of School Safety Professionals

California Community Banking Network
California Credit Union League
California District Attorneys Association
California Narcotic Officers' Association
California Police Chiefs Association
California Reserve Peace Officers Association
Claremont Police Officers Association
Corona Police Officers Association
Culver City Police Officers' Association
Fullerton Police Officers' Association
Little Hoover Commission
Los Angeles County District Attorney's Office
Los Angeles School Police Management Association
Los Angeles School Police Officers Association
Murrieta Police Officers' Association
Newport Beach Police Association
Palos Verdes Police Officers Association
Placer County Deputy Sheriffs' Association
Pomona Police Officers' Association
Riverside County District Attorney
Riverside Police Officers Association
Riverside Sheriffs' Association

Opposition

ACLU California Action
California Public Defenders Association

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

Date of Hearing: June 30, 2026
Counsel: Mary Kennedy

ASSEMBLY COMMITTEE ON PUBLIC SAFETY
Nick Schultz, Chair

SB 1266 (Stern) – As Amended May 18, 2026

SUMMARY: Changes how copper is to be valued in a copper theft case. Specifically, **this bill**: requires that for the crime of grand theft of copper, "value" shall be calculated as the full cost to the victim to repair and replace the stolen copper materials, including labor and equipment, rather than the fair market scrap value.

EXISTING LAW:

1) Defines "junk" to mean all secondhand and used machinery and all ferrous and nonferrous scrap metals and alloys, including any secondhand and used furniture, pallets, or other personal property, other than livestock or parts or portions thereof. (Bus. & Prof. Code, § 21600.)

2) States scrap metals and alloys includes but is not limited to materials and equipment commonly used in construction, electrical power generation, railroad equipment, and nonferrous materials, which are offered for sale to any junk dealer or recycler, but does not include scrap iron, household generated waste, or aluminum beverage containers, as specified. (Bus. & Prof. Code, § 21600.)

3) States that every person who feloniously steals, takes, carries, leads, or drives away the personal property of another, or who fraudulently appropriates property which has been entrusted to them, or who knowingly and designedly, by any false or fraudulent representation or pretense, defrauds any other person of money, labor or real or personal property, is guilty of theft, and divides theft into two degrees, petty theft and grand theft. (Pen. Code §§ 484, subd. (a), 486.)

4) Punishes petty theft as a misdemeanor, punishable by fine not exceeding $1,000, or by imprisonment in the county jail not exceeding six months, or both. (Pen. Code, § 490.)

5) Defines "grand theft" as theft of money, labor, real or personal property of a value exceeding $950, and punishes grand theft as a "wobbler" – subject to imprisonment in county jail not exceeding one year, or by imprisonment in county jail for 16 months, two years, or three years (Pen. Code, §§ 487, 489.)

6) Makes it a crime to buy or receive stolen property, and provides that if the value of the property is less than $950, the offense is a misdemeanor punishable by imprisonment in county jail for one year, but if the value of the property is over $950, the offense is punishable as an alternate misdemeanor-felony (wobbler) – subject to imprisonment in a county jail not exceeding one year, or by imprisonment in county jail for 16 months, two years, or three years (Pen. Code, §§ 487, 489, 496.)

7) Provides that every person who is a dealer in or collector of junk, metals, or secondhand materials, or the agent, employee, or representative of such dealer or collector, and who buys or receives any wire, cable, copper, lead, solder, mercury, iron, or brass which he or she knows or reasonably should know is ordinarily used by, or ordinarily belongs, to a railroad or other transportation, telephone, telegraph, gas, water, or electric light company, or a county, city, city and county, or other political subdivision of this state engaged in furnishing public utility service, without using due diligence to ascertain that the person selling or delivering the same has a legal right to do so, is guilty of criminally receiving that property. This crime is punishable as an alternate felony-misdemeanor, also known as a "wobbler." (Pen. Code, § 496a, subd. (a).)

8) Makes it a wobbler, punishable by a fine not exceeding $2,500 or imprisonment in a county jail not exceeding one year, or by 16 months, or two, or three years in county jail, and a $10,000 fine, for any person to steal, carry, or take away copper materials of another, including, but not limited to, copper wire, copper cable, copper tubing and copper piping, which are of a value exceeding $950. (Pen. Code, § 487j.)

9) Provides that a person who has two or more prior convictions for specified theft offenses and who is convicted of petty theft or shoplifting, is punishable by imprisonment in county jail for up to one year, or by 16 months, or two or three years, and makes a second or subsequent conviction of petty theft with two priors punishable by imprisonment in the county jail not exceeding one year or by imprisonment in state prison. (Pen. Code, § 666.1, subd. (a).)

10) Allows that in any case involving one or more acts of theft the value of property stolen may be aggregated into a single count or charge, with the sum of the value of all property being the value considered in determining the degree of theft. (Pen. Code, § 490.3)

11) Provides that if a person takes, damages, or destroys property in the commission or attempted commission of a felony, as specified, the court shall impose an additional and consecutive term of imprisonment, as follows:

    a. If the loss or property value exceeds $50,000, the court shall impose an additional term of one year.

    b. If the loss or property value exceeds $200,000, the court shall impose an additional term of two years.

    c. If the loss or property value exceeds $1,000,000, the court shall impose an additional term of three years.

    d. If the loss or property value exceeds $3,000,000, the court shall impose an additional term of four years.

    e. For each additional loss or property value of $3,000,000, the court shall impose a term of one year in addition to the term specified immediately above. (Pen. Code, § 12022.6, subd. (a).)

12) Provides that in an accusatory pleading involving multiple charges of taking, damage, or destruction, or multiple violations of the receiving stolen property statute, the additional terms provided in the provision above may be imposed if the aggregate losses to the victims

or aggregate property values from all felonies exceed the amounts specified in this above and arise from a common scheme or plan. (Pen. Code, § 12022.6, subd. (b).)

13) Makes it a wobbler, punishable by imprisonment in a county jail not exceeding one year, by a fine not exceeding $1,000, or by both that imprisonment and fine, or by imprisonment in a county jail for 16 months, two years, or three years, for any person who unlawfully and maliciously takes down, removes, injures, disconnects, cuts, or obstructs a line of telegraph, telephone, or cable television, or any line used to conduct electricity. (Pen. Code, § 591.)

14) States that every person who maliciously damages or destroys the real or personal property of another is guilty of vandalism. (Pen. Code, § 594, subd. (a).)

15) Makes it a misdemeanor, punishable by imprisonment in a county jail not exceeding one year, or by a fine of not more than $1,000, or by both that fine and imprisonment, for every person guilty of vandalism if the amount damaged is less than $400, but if the amount damaged is $400 or more, it is a wobbler offense. (Pen. Code, § 594, subd. (b).)

16) Provides that for the purposes of Section 594, "damages" includes damage caused to public transit property and facilities, and public utilities and water property facilities, in the course of stealing or attempting to steal nonferrous material, as defined. (Pen. Code, § 594.05.)

17) Provides that any person who willfully and maliciously does any injury to telegraph or telephone or electric power or gas property is liable to the corporation for three times the amount of actual damages sustained thereby. (Pub. Util. Code, § 7951.)

FISCAL EFFECT: Unknown.

COMMENTS:

1) **Sponsor:** Author-Sponsored

2) **Author's statement:** "SB 1266 strengthens protections for both public and private infrastructure by closing the gap between scrap value and real-world impact by ensuring our legal framework reflects the true cost of infrastructure damage, including full repair, replacement, and service restoration, giving law enforcement and prosecutors the tools they need to respond proportionately and deter future harm before it disrupts the services our communities rely on. These services include street lights, public schools, libraries, public charging systems and telecommunication networks."

3) **Metal Theft:** According to a white paper from the Internet & Television Association (NCTA) and other entities in the U.S. wireless communications industry, crimes related to copper theft not only disrupt essential services, but they also impose millions of dollars in repair costs, and endanger public safety by threatening emergency communications, hospitals, airports, military installations, and other public safety institutions. [1]

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[1] NCTA, CTIA, U.S. Telecom, and WIA, "Protecting The Nation's Critical Communications Infrastructure From Theft & Vandalism – Fall ," Broadband Breakfast, white paper, <https://broadbandbreakfast.com/protecting-the-nations-critical-communications-infrastructure-from-theft-vandalism-fall-2025-2/?submissionGuid=89682ec3-87ff-4da9-b474-92b97c96b3d8>.

AT&T has stated that as a company, it experienced "more than 10,400 copper theft incidents, with a weekly average of 200 incidents reported nationwide at the end of 2025," and that losses for 2025 exceeded $82 million. The company also noted that "in California alone, we are experienced more than 7,300 copper theft incidents in 2025, with losses exceeding $54 million."[2]

In June 2025, California's Attorney General addressed mental theft with a bulletin to California law enforcement noting the spike in metal theft and detailing relevant criminal statutes applicable to the theft of copper wire; the receipt, purchase, and sale of stolen copper wire; and statutes related to junk dealers and recyclers' obligations to collect and report certain information related to the receipt, purchase, and sale of copper wire.[3]

4) **Proposition 47:** In November of 2014, Proposition 47 was approved by the voters, and reclassified certain nonviolent property and drug crimes from felonies to misdemeanors. Specifically, Proposition 47 provided that various theft-related offenses for which the value of the property does not exceed $950 are generally punished as misdemeanors. Proposition 47 additionally allowed certain offenders who had previously been convicted of such crimes to petition for resentencing.

5) **Changing how theft is valued:** This bill provides that the value of copper materials in a copper theft case shall be calculated as the full cost to the victim to repair and replace the stolen material including labor and equipment, rather than the fair market scrap value. As noted in the author's background information, the scrap cost of copper wire may not be high but the repairs to fix the damage caused by removing wire can be excessive.

6) **Argument in support:** According to the *League of California Cities*, "Metal theft has become a costly issue for cities across California and the nation, severely impacting critical infrastructure components such as streetlights, fire hydrants and fire department connections, manhole covers, electric vehicle (EV) charging stations, and backflow prevention devices. Thieves often target these public assets due to the high value of precious metal, specifically copper, leaving behind significant damage that endangers public safety and imposes burdensome repair costs on local governments and businesses.

"Local governments are not the only entity plagued by this issue. Telecommunication companies are also facing the devastating consequences of metal theft crime. AT&T reported 2,200 separate incidents of copper wire theft in 2024, more than a 3000% increase since 2021. They have also spent millions on copper wire theft repairs due to theft and vandalism to their network.

"SB 1266 would help restore some of the damage done from metal theft by allowing for infrastructure cost recovery of the actual value and labor it takes to repair stolen metal. This

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[2] Rahdeese Alcutt, lead investigator, AT&T Global Security, "Copper Theft – What We're Missing," AT&T, blog, https://about.att.com/blogs/2026/copper-theft.html?source=EC00EM0000000000E&wtExtndSource=04032026&wtExtndSource=04032026

[3] California Attorney General, *State Statutes Applicable to Copper Wire Theft*, Information Bulletin No. 2025-DLE-12 (Jun. 5, 2025) <https://oag.ca.gov/system/files/media/2025-dle-12.pdf>.

change would make more copper thefts exceed the $950 threshold and thus increase the eligibility for a felony charge.

"The financial burden of repairing and replacing stolen infrastructure components falls on taxpayers, utility providers, and municipalities, draining resources that could otherwise be used for community development and essential services This bill would shift the financial burden onto those causing the damage, rather than those left to pick up the pieces."

7) **Argument in opposition:** According to the *Vera Institute of Justice*, "Copper metal theft, by an individual or a group, is already criminalized under existing law. Under the copper theft statute, any theft of copper materials whose value exceeds $950 is punishable up to three years in prison and a fine of $10,000. Theft of less than $950 in materials is punishable as a misdemeanor carrying up to six months of incarcerations and $1000 fine. If multiple misdemeanor petty thefts occur in line with one intention, impulse, or plan, the thefts may be aggregated into a grand theft charge. When this theft is in concert with others, everyone faces the full punishment available under the relevant statute for aiding and abetting the crime. The circumstances that motivate SB 1266 are already criminalized by existing law.

"SB 1266's use of "cost of replacement" to determine how a theft should be categorized will lead to nearly every copper theft being prosecuted as a felony, with no benefit to public safety. For example, last year, individuals stole $11,000 of copper from a bridge in LA and the city estimated that the repairs would cost $2.5 million, a ratio of nearly 250:1. Assuming a similar ratio applies to lower-level thefts, prosecutors may argue that any theft of more than four dollars' worth of copper should be punished as a felony. To the extent that SB 1266 will increase existing criminal punishments, the bill goes against existing research which demonstrates that increased sentences do not deter or prevent crime.

"In addition to not improving public safety, the Legislature cannot ignore the fiscal cost of increased incarceration. For example, incarcerating a person for one year in Los Angeles County Jail costs approximately $90,000. If a person is sentenced to three years of incarceration for felony copper theft under SB 1266 instead of a six-month misdemeanor petty theft sentence under current law, this will cost LA County $225,000.

"Instead of throwing millions of dollars into ineffective carceral approaches, the Legislature should invest in increased oversight over the recycling companies making a profit from stolen copper in order to tamper down the illegal market driving these thefts."

8) **Related Legislation:** AB 1941 (M. Gonzalez) focuses on repeat and organized offenders who steal, or traffic prohibited metal materials. AB 1941 has been referred to the Senate Public Safety Committee.

9) **Prior Legislation:**

   a) AB 476 (M.González), Chapter 694, Statutes of 2025, put dealers and recyclers buying various scrap metal items to keep additional records.

   b) AB 1218 (Soria), of the 2025-2026 Legislative Session, would have made it a crime to possess copper materials which are a value in excess of $950, without proof of lawful

possession, among other changes. AB 1218 died in the Assembly Public Safety Committee.

c) SB 1387 (Berryhill), Chapter 656, Statutes of 2012, this bill prohibits junk dealers and recyclers from possessing fire hydrants, manhole covers or backflow devices without proper certification, as specified; and provides that possession of stolen fire hydrants, manhole covers or backflow devices by persons engaged in the salvage, recycling, purchase or sale of scrap metal, shall be punishable by an additional fine up to $3000.

d) AB 1971 (Buchana), Chapter 82, Statutes of 2012, increases the maximum fine for junk and second-hand dealers who knowingly purchase metals used in transportation or public utility services without due diligence from $250 to $1,000, among other changes.

e) AB 316 (Carter), Chapter 317, Statutes of 2011, creates a separate section for grand theft of copper materials and adds a fine of up to $2,500 on to the existing penalties as specified.

f) SB 447 (Maldonado), Chapter 732, Statutes of 2009, assists local law enforcement officials in quickly investigating stolen metal and apprehending thieves by requiring scrap metal dealers and recyclers to report what materials are being scraped at their facilities and by whom on a daily basis. These rules already apply to pawn shop dealers.

g) SB 691 (Calderon), Chapter 720, Statutes of 2009, requires junk dealers and recyclers to take thumbprints of individuals selling copper, copper alloys, aluminum and stainless steel. Sellers must also show a government identification (ID) and proof of their current address. Recyclers who violate the law face suspension or revocation of their business license and increased fines and jail time.

h) AB 1859 (Adams), Chapter 659, Statutes of 2008, creates a fine of not more than $3,000 for any person who knowingly receives any part of a fire hydrant, including bronze or brass fittings and parts.

i) AB 844 (Berryhill), Chapter 731, Statutes of 2009, requires recyclers to hold payment for three days, check a photo ID and take a thumbprint of anyone selling scrap metals. AB 844 also requires any person convicted of metal theft to pay restitution for the materials stolen and for any collateral damage caused during the theft.

j) AB 2724 (Benoit), of the 2007-2008 Legislative Session, required any person convicted of grand theft involving the theft of wire, cable, copper, lead, solder, mercury, iron or brass of a kind ordinarily used by, or that ordinarily belongs to a railroad or other transportation, telephone, telegraph, gas, water, or electric light company or county, city, city and county, or other political subdivision of this state engaged in furnishing public utility service, or farm, ranch or industrial facility or other commercial or residential building, to pay a fine of $100 for a first offense and $200 for any subsequent offense. AB 2724 failed passage in the Senate Committee on Public Safety.

REGISTERED SUPPORT / OPPOSITION:

Support

At&t
Audobon California
California Contract Cities Association
California District Attorneys Association
California Municipal Utilities Association
California Police Chiefs Association
California Water Association
City of Norwalk
City of Pico Rivera
City of Roseville
CTIA
Electrify America, LLC
League of California Cities
Los Angeles Council Member Adrin Nazarian
Los Angeles County District Attorney's Office
National Audubon Society
Peace Officers Research Association of California (PORAC)
Town of Portola Valley
United States Telecom Association Dba Ustelecom - the Broadband Association
Verizon Communications, INC. and its Affiliates

Opposition

ACLU California Action
All of US or None (HQ)
California Public Defenders Association
Californians for Safety and Justice (CSJ)
Californians United for a Responsible Budget
Ella Baker Center for Human Rights
Felony Murder Elimination Project
Friends Committee on Legislation of California
Initiate Justice
Justice2jobs Coalition
LA Defensa
Legal Services for Prisoners With Children
Local 148 Los Angeles County Public Defender's Union
San Francisco Public Defender
Smart Justice California, a Project of Beyond Impact
Vera Institute of Justice

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

Date of Hearing: June 30, 2026
Counsel: Ilan Zur

ASSEMBLY COMMITTEE ON PUBLIC SAFETY
Nick Schultz, Chair

SB 1330 (Arreguín) – As Amended May 14, 2026

SUMMARY: Expands the list of professions for which an assault or battery of a person in that profession carries elevated misdemeanor penalties to include utility workers, as defined. Specifically, **this bill**:

1) Includes utility workers engaged in the performance of their duties in the list of professions against whom an assault or battery conviction carries elevated criminal penalties.

2) Makes an assault of, or battery against, a utility worker engaged in the performance of their duties, where the perpetrator knows or reasonably should know the victim is such a utility worker engaged in the performance of their duties, punishable by imprisonment of up to one year in county jail, up to a $2,000 fine, or by both.

3) Defines "utility worker" to mean a person employed by, or who is a contractor to, an investor-owned or publicly owned water corporation, electrical corporation, gas corporation, electric cooperative, local publicly owned electric utility, as defined, or a public water system, as defined, that performs services for or delivers a commodity to the public or any portion thereof and the service performed by the person is the construction, alteration, demolition, installation, maintenance, or repair of water, electrical, or gas infrastructure.

EXISTING LAW:

1) Defines "assault" as an unlawful attempt, coupled with a present ability, to inflict a violent injury upon another person, and makes the offense punishable by up to six months in county jail, up to a $1,000 fine, or by both. (Pen. Code, §§ 240 & 241, subd. (a).)

2) Makes an assault upon another by any means of force likely to produce great bodily injury an alternate felony-misdemeanor punishable by up to one year in county jail, by two, three, or four years in state prison, or by up to a $10,000 fine, or by both the fine and imprisonment. (Pen. Code, § 245, subd. (a)(4).)

3) Provides that when an assault is committed against a peace officer, firefighter, emergency medical technician, lifeguard, process server, traffic officer, code enforcement officer, animal control officer, or search and rescue member engaged in the performance of their duties, or a physician or nurse engaged in rendering emergency medical care outside a hospital, clinic, or other health care facility, or a physician, nurse, or other health care worker of a hospital engaged in providing services within the emergency department, and the person committing the offense knows or reasonably should know of the victim's above status, the assault is punishable by up to one year in county jail, up to a $2,000 fine, or by both. (Pen. Code, § 241, subd. (c).)

4) Defines "battery" as any willful and unlawful use of force or violence upon another person, and makes the offense punishable by up to six months in the county jail, up to a $2,000 fine, or by both. (Pen. Code, §§ 242 & 243, subd. (a).)

5) Provides that when a battery is committed against a peace officer, custodial officer, firefighter, emergency medical technician, lifeguard, security officer, custody assistant, process server, traffic officer, code enforcement officer, animal control officer, or search and rescue member engaged in the performance of their duties, whether on or off duty, a nonsworn employee of a probation department engaged in the performance of their duties, whether on or off duty, or a physician or nurse engaged in rendering emergency medical care outside a hospital, clinic, or other health care facility, or a physician, nurse, or other health care worker of a hospital engaged in providing services within the emergency department, and the person committing the offense knows, or reasonably should know, of the victim's above status, the offense is punishable by up to one year in county jail, up to a $2,000 fine, or by both. (Pen. Code, § 243, subd. (b).)

6) Provides that when a battery is committed against a custodial officer, firefighter, emergency medical technician, lifeguard, process server, traffic officer, animal control officer, or a nonsworn employee of a probation department engaged in the performance of their duties, whether on or off duty, or a physician or nurse engaged in rendering emergency medical care outside a hospital, clinic, or other health care facility, and the person committing the offense knows or reasonably should know of the victim's above status, and an injury is inflicted on that victim, the offense is punishable by up to one year in county jail, by a fine of up to a $2,000, or by both, or by imprisonment in county jail for 16 months, two, or three years. (Pen. Code, § 243, subd. (c).)

7) Makes an assault or battery committed against a "highway worker," as defined, that is engaged in the performance of their duties and the perpetrator knows or reasonably should know the victim is a highway worker engaged in the performance of their duties, punishable by up to one year in county jail, up to a $2,000 fine, or by both. (Pen. Code, §§ 241.5, 243.65.)

8) Makes a battery where serious bodily injury is inflicted upon the victim an alternate-misdemeanor felony punishable by up to one year in the county jail, or by two, three, or four years in the county jail. (Pen. Code, § 243, subd. (d).)

9) Punishes any person who personally inflicts great bodily injury on any person other than an accomplice in the commission, or attempted commission, of a felony by an additional and consecutive term of three years. (Pen. Code, § 12022.7, subd. (a).)

10) Defines the following terms:

    a) "Local publicly owned electric utility" means a specified municipality or municipal corporation operating as a "public utility" furnishing electric service, a specified municipal utility district furnishing electric service, a specified public utility district furnishing electric services, a specified irrigation district furnishing electric services, or a joint powers authority that includes one or more of these agencies and that owns generation or transmission facilities, or furnishes electric services over its own or its member's electric distribution system. (Pub. Util. Code § 224.3)

b) "Public water system" means a system for the provision of water for human consumption through pipes or other constructed conveyances that has 15 or more service connections or regularly serves an average of at least 25 individuals daily at least 60 days out of the year, as specified. (Health & Saf. Code, § 116275, subd. (h).)

FISCAL EFFECT: Unknown.

COMMENTS:

1) **Sponsor**: International Brotherhood of Electrical Workers Local Union 1245

2) **Author's Statement**: According to the author, "Our public utility workers play an important role in maintaining the infrastructure that communities rely on every day, including electricity and water services. While performing this essential work in the field, utility workers have reported incidents of harassment and assault that often create unsafe and stressful work environments, further complicating their ability to perform their duties. At least for one major utility employer, since 2022, 81 incidents have occurred in which weapons were brandished at their employees during work operations in the field. Like other classes of workers who already have protections against assault or battery under the State Penal Code (e.g. police officer, firefighter, nurse or doctor), public utility workers equally face threats to their safety when performing their essential work. SB 1330 seeks to provide our utility workers these same protections, ensuring that they can perform their work and service the public without fear."

3) **Need for this Bill**: There have been numerous incidents in recent years in which utility workers experienced violence and harassment while performing their duties. In 2019, a Pacific Gas & Electric (PG&E) employee was allegedly shot at by a pellet gun during a period in which surrounding customers were experiencing planned power outages.[1] In 2021, an individual allegedly yelled racial slurs and physically assaulted a San Diego Gas & Electric (SDG&E) worker who informed drivers that a road was closed due to an SDG&E roadblock.[2] This individual was apprehended and subject to hate crime and battery charges.[3] In 2022, an individual stabbed a PG&E worker who was marking gas lines.[4] That individual was arrested for attempted homicide.[5] Most recently, following the Palisades fire, the Los Angeles Department of Water and Power (LADWP) reported that an individual drove up to an LADWP employee who was working on a downed electrical pole and threatened them with bodily harm.[6]

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[1] ABC News, *They're your neighbors': CEO of PG&E defends crew allegedly attached with pellet gun in Glenn County* (Oct. 23, 2019) https://abc7news.com/power-outage-shut-off-pge-map-website-down/5642269/ [As of June 3, 2026].
[2] Matt Meyer, *Man charged with hate crime, accused of racist tirade at SDG&E worker* (March 4, 2022) <https://fox5sandiego.com/news/local-news/man-charged-with-hate-crime-accused-of-racist-tirade-at-sdge-worker/> [As of June 3, 2026].
[3] *Ibid.*
[4] Daily Journal, *Utility worker stabbed, suspect arrested for attempted murder in South San Francisco* (June 14, 2022), <https://www.smdailyjournal.com/news/local/utility-worker-stabbed-suspect-arrested-for-attempted-murder-in-south-san-francisco/article_6dd1b602-eb97-11ec-8c34-6fcfb6d4b323.html> [As of June 3, 2026].
[5] *Ibid.*
[6] Winton and Smith, *DWP says workers have been threatened with bodily harm, and possibly, a rifle* (Jan. 15, 2025) <https://www.latimes.com/california/story/2025-01-15/threats-to-los-angeles-dwp-workers> [As of June 3, 2026].

4) **Effect of this Bill**: An assault is "an unlawful attempt, coupled with a present ability, to commit a violent injury on the person of another." (Pen. Code, § 240.) A battery is "any willful and unlawful use of force or violence upon the person of another." (Pen. Code, § 242.) "'[S]imple assault' is included in the offense of battery,' and '[a] conviction of the latter would subsume the assault. By definition one cannot commit battery without also committing a 'simple' assault, which is nothing more than an attempted battery. (*People v. Fuller* (1975) 53 Cal.App.3d 417, 421, citations omitted.) An example of an assault is swinging at another person without hitting them, whereas striking the other person is a battery. Simple assault and battery are both misdemeanors punishable by up to six months in the county jail, a fine, or both (Pen. Code, §§ 241, subd. (a), 243, subd. (a).) Battery carries a fine of up to $2,000 whereas simple assault carries a fine of up to $1,000. (*Ibid.*)

If an individual commits simple assault or battery against members of certain professions engaged in public safety activities or performing certain public functions, the punishment may result in elevated penalties. Most relevant here are Penal Code sections 241 and 243 which make simple assault or battery of a peace officer, firefighter, emergency medical technician, lifeguard, process server, traffic officer, code enforcement officer, animal control officer, or a search and rescue member, or a custodial officer, security officer, custody assistant, or specified probation employees (only for a battery) engaged in the performance of their duties, or specified medical personnel providing services in an emergency department, where the perpetrator knows or reasonably should know of the victim's above status, punishable by an *additional* six months in jail, for a maximum sentence of up to one year in county jail, or a fine of up to $2,000, or by both. (Pen. Code, § 241, subd. (c), § 243, subd. (c).)

This bill adds utility workers to the list of professions against whom an assault or battery carries an elevated misdemeanor penalty. The bill defines "utility worker," to mean a person employed by, or who is a contractor to, an investor-owned or publicly owned water corporation, electrical corporation, gas corporation, electric cooperative, local publicly owned electric utility as defined, or a public water system, as defined, that performs services for or delivers a commodity to the public or any portion thereof and the service performed by the person is the construction, alteration, demolition, installation, maintenance, or repair of water, electrical, or gas infrastructure. This is a substantial addition to the special assault and battery statutes that apply to certain professions. This definition encompasses a variety of investor-owned and publicly owned electrical, gas, and water corporations, among other utility entities, and includes both people employed by, and contracted to, those entities. The scope of the definition is somewhat constrained by its application to persons performing specific services of constructing, altering, demolishing, installing, maintaining, or repairing water, electrical, or gas infrastructure. Consistent with the treatment of individuals from other professions under the special assault and battery statutes, these higher assault and battery misdemeanor penalties apply only if the utility worker is engaged in the performance of their duties and the perpetrator knows or reasonably should know that the victim is a utility worker performing their duties.

Effectively, this would increase the maximum punishment for assaulting this class of utility workers from a maximum six-month jail sentence or a $1,000 fine to a maximum one-year jail sentence or a $2,000 fine. Because battery is already punishable with up to a $2,000 fine, this bill would not change the maximum fine that may be imposed for committing battery

against a utility worker. (Pen. Code, §§ 242 & 243, subd. (a).) Instead, it only increases the maximum jail term for such a battery from six months to one year.

5) **Felony Penalties Available for Assaults and Battery Involving Injury**: In addition to the assault and battery statutes described above, an assault or battery that causes, or is likely to cause injury (in the case of assault), can result in a prison sentence irrespective of whether the victim is employed in any of the above professions. An assault by means of force likely to produce great bodily injury, or a battery that results in serious bodily injury to another, are alternate-felony misdemeanors punishable by up to one year in county jail, or by imprisonment for two, three, or four years. (Pen. Code, §§ 245, subd. (a)(4), 243, subd. (d).) Moreover, a person who personally inflicts great bodily injury on a person other than an accomplice in the commission, or attempted commission, of a felony is subject to a three-year, additional and consecutive, sentence enhancement. (Pen. Code, § 12022.7, subd. (a).) Many of the incidents cited by proponents involve actual physical violence that causes injury (e.g., stabbing of a PG&E worker in 2022);[7] conduct that can already be prosecuted as a felony under existing law.

6) **Governor Vetoes of Particularization of Crimes**: Bills that establish profession-specific elevated assault and battery penalties are vulnerable to criticism that the conduct can already be prosecuted, additional jail time for batteries and assaults is unlikely to improve public safety, and creating more distinct assault and battery crimes unnecessarily adds to the length and complexity of the Penal Code. This has resulted in multiple vetoes of this type of legislation that creates profession-specific, heightened criminal penalties.

   In 2015, AB 172 (Rodriguez), of the 2015-2016 Legislative Session, would have increased the penalties for assault and battery committed against a physician, nurse, or other health care worker engaged in performing services within the emergency department. Governor Brown vetoed this bill, stating:

   > Emergency rooms are overcrowded and often chaotic. I have great respect for the work done by emergency room staff and I recognize the daunting challenges they face every day. If there were evidence that an additional six months in county jail (three months, once good-time credits are applied) would enhance the safety of these workers or serve as a deterrent, I would sign this bill. I doubt that it would do either.

   In 2017, AB 513 (Bradford), of the 2017-2018 Legislative Session, was substantially similar to this bill, although limited to increasing the criminal fines for an assault or battery of a utility worker. Governor Brown vetoed this bill, stating:

   > This bill adds $1,000 to the current penalty for assault or battery if committed against a public utility worker.

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[7] Daily Journal, *Utility worker stabbed, suspect arrested for attempted murder in South San Francisco* (June 14, 2022) https://www.smdailyjournal.com/news/local/utility-worker-stabbed-suspect-arrested-for-attempted-murder-in-south-san-francisco/article_6dd1b602-eb97-11ec-8c34-6fcfb6d4b323.html [As of June 3, 2026].

> I don't believe the additional $1,000 called for in this bill would do much to deter this type of conduct, which is already punishable by either six months or a year in jail, and up to a $2,000 fine depending on the charge.
>
> I would note that the bill further slices and dices our criminal law, dividing the crimes of assault and battery into even more discreet categories, which grow more numerous by the decade. As a general rule I don't think this a good idea.
>
> Our criminal code already has more than 5,000 separate criminal provisions, making it more particularized than it needs to be for an understandable and fair system of justice.

Most recently, Governor Newsom vetoed SB 596 (Portantino), of the 2023-2024 Legislative Session, which would have created a new crime with increased penalties for abusive conduct targeting school officials. In his veto message, the Governor said:

> Credible threats of violence and acts of harassment - whether directed against school officials, elected officials, or members of the general public - can already be prosecuted as crimes. As such, creating a new crime is unnecessary….
>
> No school official should be subject to threats or harassment for doing their job, period. I encourage school officials to work closely with local law enforcement to use the laws already on the books to ensure the safety and security of our community's educators and governing board members, both while carrying out their school duties on school premises and while away from school sites.

The same rationale against particularization applies to this bill.

7) **Argument in Support**: According to the *International Brotherhood of Electrical Workers, Local Union 1245*, a co-sponsor of this bill, "Despite the essential nature of their work, utility workers increasingly face threats, verbal harassment, and physical violence while performing their duties in the field. Just this past March, a crew of IBEW members assigned to perform routine work in El Dorado County was threatened and then assaulted by a resident. The assailant fired multiple shots at the crew, one of which struck a line worker in the arm. By sheer luck, no other IBEW members were hurt. The same assailant then fired upon Sheriff's Deputies when they responded, injuring the Deputies as well…

"By clarifying that assault or battery against a utility worker engaged in their duties is subject to enhanced penalties, SB 1330 sends a strong and necessary message: violence against workers who maintain California's critical infrastructure will not be tolerated. The bill will help deter harmful conduct, promotes worker safety, and ensures that those who keep essential services running can do their jobs without fear of attack.

"Importantly, SB 1330 applies to a range of utility workers, including those involved in the construction, installation, maintenance, and repair of water, electrical, and gas infrastructure, whether employed directly by utilities or working as contractors. This comprehensive definition reflects the modern utility workforce and ensures that all individuals performing this essential work are afforded equal protection. This comprehensive definition reflects the modern utility workforce and ensures that all individuals performing this essential work are

afforded equal protection."

8) **Argument in Opposition**: According to *Courage California*, "Existing laws already provide penalties for assault and battery against all individuals, regardless of their profession. Carving out additional categories of protected workers creates a tiered system of justice that undermines the principle of equal protection under the law. Public utility employees, like all individuals, deserve safety and security in their workplace, but enhancing penalties for crimes against one group over another leads to inequitable outcomes in our criminal justice system…

"California's history with tough-on-crime policies demonstrates that escalating penalties do not improve public safety. Instead, they contribute to costly mass incarceration without preventing harmful behavior. SB 1330 follows this flawed path. Increasing jail time for individuals who cause harm to public utility workers will not prevent such incidents and may worsen community relations with utility providers.

"When Governor Brown vetoed a similar bill, AB 172 (Rodriguez, 2015), he stated: "If there were evidence that an additional six months in county jail (three months, once good-time credits are applied) would enhance the safety of these workers or serve as a deterrent, I would sign this bill. I doubt that it would do either. We need to find more creative ways to protect the safety of these critical workers. This bill isn't the answer." This reasoning holds equally true today, SB 1330 is not the answer."

9) **Related Legislation**: SB 431 (Arreguín) was substantially similar to this bill. SB 431 was held in the Assembly Appropriations Committee.

10) **Prior Legislation**:

a) AB 394 (Wilson), Chapter 147, Statutes of 2025, expanded the elevated penalties that apply to persons who commit battery against certain transit workers to include public transportation provider employees and contractors.

b) AB 977 (Rodriguez), Chapter 937, Statutes of 2024, expanded the elevated criminal penalties that apply to persons who commit assault or battery against specified members of certain professions to include physicians, nurses, or other healthcare workers of a hospital engaged in providing services within the emergency department.

c) AB 2824 (McCarty), of the 2023-2024 Legislative Session, would have expanded the elevated criminal penalties associated with committing battery against operators, drivers, or passengers of specified public transportation vehicles to include employees and contractors of a public transportation provider. AB 2824 was not heard in the Assembly Public Safety Committee.

d) AB 329 (Rodriguez), of the 2019-2020 Legislative Session, would have created a new crime for assault on hospital property punishable by up to one year in the county jail, a fine of up to $2,000, or by both imprisonment and the fine. AB 329 was gutted and amended in the Senate to an unrelated subject matter.

e) SB 1416 (Bradford), of the 2019-2020 Legislative Session, was substantially similar to SB 513. SB 1416 was not heard in the Senate Public Safety Committee.

f) SB 513 (Bradford), of the 2017-2018 Legislative Session, was similar to this bill and would have increased the penalties for assault and battery committed against public utility workers, as specified. AB 513 was vetoed by the Governor.

g) AB 172 (Rodriguez), of the 2015-2016 Legislative Session, would have increased the penalties for assault and battery committed against a physician, nurse, or other health care worker engaged in performing services within the emergency department. AB 172 was vetoed by the Governor.

h) SB 390 (La Malfa), Chapter 249, Statutes of 2011, increased the penalties for assault and battery against a search and rescue member.

i) SB 406 (Lieu), Chapter 250, Statutes of 2011, increased the penalties for assault and battery against a security officer or custodial assistant.

j) SB 409 (Lowenthal), Chapter 410, Statutes of 2009, increased the penalties for assault and battery against a highway worker.

k) AB 1686 (Leno), Chapter 243, Statutes of 2007, increased the fine from $1,000 to $2,000 when an assault is committed against a parking control officer.

REGISTERED SUPPORT / OPPOSITION:

Support

California State Association of Electrical Workers (Co-Sponsor)
Coalition of California Utility Employees (Co-Sponsor)
American Federation of State, County and Municipal Employees (AFSCME) Council 57
American Federation of State, County and Municipal Employees, Afl-cio
Arcadia Police Officers' Association
Bay Area Council
Brea Police Association
Burbank Police Officers' Association
California American Water
California Civil Liberties Advocacy
California Federation of Labor Unions, Afl-cio
California Labor Federation, Afl-cio
California Municipal Utilities Association
California Police Chiefs Association
California Reserve Peace Officers Association
California Water Association
California Water Service
City of Long Beach, Long Beach Public Utilities Department
City of Pico Rivera
City of Roseville

City of Sacramento Department of Utilities
Claremont Police Officers Association
Corona Police Officers Association
Culver City Police Officers' Association
East Bay Municipal Utility District
El Dorado Irrigation District
Elsinore Valley Municipal Water District
Engineers and Scientists of California, Ifpte Local 20, Afl-cio
Fullerton Police Officers' Association
Golden State Water Company
Great Oaks Water Company
International Brotherhood of Electrical Workers, Local 1245
Liberty Utilities
Los Angeles County District Attorney's Office
Murrieta Police Officers' Association
Newport Beach Police Association
Pacific Gas and Electric Company
Palos Verdes Police Officers Association
Placer County Deputy Sheriffs' Association
Pomona Police Officers' Association
Riverside Police Officers Association
Riverside Sheriffs' Association
Roseville; City of
Sacramento Municipal Utility District
San Diego Gas and Electric Company
San Gabriel Valley Water Company
San Jose Water Company
Southern California Edison
Southern California Gas Company
Suburban Water Systems

Opposition

ACLU California Action
Courage California
Initiate Justice
Justice2jobs Coalition
LA Defensa
Local 148 Los Angeles County Public Defender's Union
Rubicon Programs
San Francisco Public Defender
The W. Haywood Burns Institute

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

Date of Hearing: June 30, 2026
Counsel: Dustin Weber

ASSEMBLY COMMITTEE ON PUBLIC SAFETY
Nick Schultz, Chair

SB 1338 (Jones) – As Amended May 14, 2026

SUMMARY: Increases fines for interfering with the transport of a vehicle to a storage facility, auction, or dealer by an individual who is employed by a repossession agency. Specifically, **this bill**:

1) Punishes with an infraction and increases the fine from $100-$200 a person who interferes with the transport of a vehicle to a storage facility, auction, or dealer by an individual who is employed by a repossession agency.

2) Punishes with an infraction and increases the fine from $200-$400 a person who, for a second time within one year, interferes with the transport of a vehicle to a storage facility, auction, or dealer by an individual who is employed by a repossession agency.

3) Punishes with an infraction and increases the fine from $250-$500 a person who, for a third or subsequent time within one year, interferes with the transport of a vehicle to a storage facility, auction, or dealer by an individual who is employed by a repossession agency.

4) Defines "interfere" as to physically impede by obstructing, hindering, or preventing movement, including removing or disabling equipment used for transporting the vehicle.

EXISTING LAW:

1) Prohibits a person from interfering with the transport of a vehicle to a storage facility, auction, or dealer by an individual who is employed by a repossession agency or who is licensed as a repossessor, once repossession is complete, as specified. This prohibition does not apply to a peace officer while acting in an official capacity. This offense is punishable as an infraction. (Veh. Code, § 10856, subd. (a).)

2) States that any tow yard, impounding agency, or governmental agency, or any person acting on behalf of a person employed by a repossession agency or who is licensed as a repossessor, to release a vehicle or other collateral to anyone that is legally entitled to that vehicle or other collateral shall not refuse release of the vehicle or collateral. This subdivision does not apply to a vehicle being held for evidence by law enforcement or a prosecuting attorney. (Veh. Code, § 10856, subd. (b).)

3) Requires that a person convicted of an infraction for defined violations of the Vehicle Code be punished as follows:

   a) By a fine not exceeding $100.

b) For a second infraction occurring within one year of a prior infraction that resulted in a conviction, a fine not exceeding $200.

c) For a third or subsequent infraction occurring within one year of two or more prior infractions that resulted in convictions, a fine not exceeding $250. (Veh. Code, § 42001, subd. (a).)

4) Defines "repossession" as any of the following:

a) The repossessor gains entry to the collateral.

b) The collateral becomes connected to a tow truck or the repossessor's tow vehicle.

c) The repossessor moves the entire collateral present.

d) The repossessor gains control of the collateral.

e) The repossessor disconnects any part of the collateral from any surface where it is mounted or attached. (Bus. & Prof. Code, § 7500.2.)

5) Defines "repossession agency" as any person who, for any consideration whatsoever, engages in business or accepts employment to locate or recover collateral, whether voluntarily or involuntarily, including, but not limited to, collateral registered under the provisions of the Vehicle Code that is subject to a security agreement. (Bus. & Prof. Code, § 7500.2, subd. (a).)

FISCAL EFFECT: Unknown

COMMENTS:

1) **Sponsor**: California Association of Licensed Repossessors.

2) **Author's Statement**: According to the author, "Repossessions often occur in unpredictable and dynamic environments, where interactions between agents and debtors can escalate quickly. While current law prohibits interference with the transportation of a repossessed vehicle after the repossession is complete, existing provisions do not sufficiently ensure orderly completion of these activities. SB 1338 reinforces these protections by increasing the penalty for intentional interference, establishing clearer consequences for interference and defining what constitutes this interference."

3) **Effect of the Bill:** SB 1338 would double the fines available generally for interfering with the repossession of a vehicle. It is unclear whether increasing penalties has a deterrent effect. There is reliable evidence showing increased penalties generally fails to deter criminal behavior.[1] Data shows greater deterrent effects as the likelihood of being caught and the

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[1] National Institute of Justice, *Five Things About Deterrence* (May 2016) <https://www.ojp.gov/pdffiles1/nij/247350.pdf> [as of May 29, 2026].

perception that one will get caught rises.[2] In contrast, the act of punishment and the length of punishment largely do not increase deterrence.[3]
Fines and the collection of those fines are commonly misunderstood. The actual cost to a defendant can be much higher than the base fine amount. The breakdown and supporting information below can be illustrative.

Example: Penalty assessments and fees on a base fine of $1,000:

Pen. Code, § 1464 state penalty on fines:	1,000 ($10 for every $10)
Pen. Code, § 1465.7 state surcharge:	200 (20% surcharge)
Pen. Code, § 1465.8 court operation assessment:	40 ($40 fee per criminal offense)
Gov. Code, § 70372 court construction penalty:	500 ($5 for every $10)
Gov. Code, § 70373 assessment:	30 ($30 for felony or misdemeanor)
Gov. Code, § 76000 penalty:	700 ($7 for every $10)
Gov. Code, § 76000.5 EMS penalty:	200 ($2 for every $10)
Gov. Code, § 76104.6 DNA fund penalty:	100 ($1 for every $10)
Gov. Code, § 76104.7 additional DNA fund penalty:	400 ($4 for every $10)
Total Fine with Assessments:	**$4,170**

Fines can rapidly balloon into unpayable amounts for most of the population, which create downstream economic consequences for impacted individuals and society. Unsurprisingly, the judicial branch reported that $8.6 billion in fines and fees remained unpaid at the end of 2019-20.[4]

With evidence also showing that growing fines increases felony recidivism, specifically among a population that historically has faced disproportionate punishment in the criminal justice system,[5] it remains questionable whether increasing fines, as this bill does, would produce the desired impact.

4) **Need for the Bill:** One of the justifications for the penalty increases in this bill includes the occasionally chaotic examples of repossession. For example, in February 2026, a repossession agent in Apple Valley towed a vehicle when a suspect approached and threatened him with a firearm. The person put the firearm away when he was informed the tow truck driver was a repossession agent.[6] In 2025, a Huntington Beach man assaulted a repossession agent who was attempting to recover a towed boat, causing significant injuries.[7] In 2023, repossession agent Blaine LaPrairie responded to a call to repossess a vehicle when

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[2] *Ibid.*
[3] *Ibid.*
[4] Legis. Analyst, Overview of Criminal Fine and Fee System (May 13, 2021) <https://lao.ca.gov/Publications/Detail/4427> [as of May 29, 2026].
[5] Giles, *The Government Revenue, Recidivism, and Financial Health Effects of Criminal Fines and Fees* (Feb. 19, 2025) Wellesley College <http://dx.doi.org/10.2139/ssrn.4568724> [as of May 29, 2026].
[6] *20-Year-Old Apple Valley Resident Arrested After Allegedly Pointing Gun at Repo Driver In Victorville* (Feb. 14, 2026) Victor Valley News Group <https://www.vvng.com/20-year-old-apple-valley-resident-arrested-after-allegedly-pointing-gun-at-repo-driver-in-victorville/> [as of May 29, 2026].
[7] Dallow, *Huntington Beach man arrested after assault, SWAT standoff over towed boat*, KTLA 5 (Dec. 19, 2025) <https://ktla.com/news/local-news/huntington-beach-man-arrested-after-assault-swat-standoff-over-towed-boat/> [as of May 29, 2026].

he was shot in the upper body.[8] He was transported to a nearby hospital, where he later died from his injuries.[9] While these incidents are certainly troubling, they represent a few incidents across a few years. Because there does not appear to be reliable, contemporary data tracking violence against repossessors, it is difficult to know whether these incidents are outliers or representative of an emerging or existing trend. Given the data on the unlikelihood of deterrence being effective with increased fines proposed by SB 1338, it is important to consider whether this bill will produce the author's desired impact.
The intent of the bill, at least in part, is to deter people from engaging in violence with repossessors while they are in the process of repossessing or transporting a vehicle. Yet, as noted in the previous section of the analysis, it is unclear whether the expanded penalties proposed in SB 1338 will have a deterrent effect.

5) **Punishing Poverty:** SB 1338 would double the fines associated generally with interfering with a repossessor. Vehicle repossession generally arises out of an inability to make payments on a vehicle you have purchased and financed. An inability to make these payments is often connected to a person's economic wellbeing. In 2026, the economic health of Californians and Americans at large, under many measures, is historically bad. These punishing economic headwinds facing everyday Californians are falling most heavily on those with the least.

   California has the highest poverty rate in the country.[10] California's poverty rate rose from 11.7% in 2021 to 13.2% in 2023, and nearly a third of Californians are living in or near poverty.[11] This rising poverty rate, as well as increased costs of living, has coincided with a significant increase in California's homelessness population—increasing by as much as 7.5% between 2022 and 2023.[12] Recent data suggests that more than 180,000 persons were experiencing homelessness in California in 2024.[13] Racial disparities among the homeless population is well documented. The share of Black, American Indian, Alaska Native, or Indigenous people experiencing homelessness is five times greater than their share of the total population.[14]

   Other economic data paints a sobering picture, particularly among those living at or near the margins. In a report released by the Urban Institute, which is an organization founded by President Lyndon B. Johnson in 1968 to provide knowledge to help solve the problems that weighed heavily on the nation's hearts and minds, they found Americans struggling to afford necessities like "food, child care, housing, and energy."[15] They found roughly half of American families cannot afford the true cost of living, which generally measures whether

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[8] Chow, *Southern California repo man killed on the job, suspect at large* (Dec. 15, 2023) KTLA 5 <https://ktla.com/news/local-news/socal-repo-man-killed-on-the-job-suspect-at-large/> [as of May 29, 2026].
[9] *Ibid.*
[10] Dan Walters, *Once again, California beats every other state when it comes to poverty* (Sept. 11, 2024) CalMatters <https://calmatters.org/commentary/2024/09/california-again-top-state-poverty/> [as of June 5, 2026].
[11] Bohn et. al., *Poverty in California* (Oct. 2023) Public Policy Institute of California <https://www.ppic.org/publication/poverty-in-california/> [as of June 5, 2026].
[12] Cuellar and Perez, *An Update on Homelessness in California* (March 21, 2024) <https://www.ppic.org/blog/an-update-on-homelessness-in-california/> [as of June 5, 2026].
[13] *Ibid.*
[14] *Acting to Prevent, Reduce, and End Homelessness* (2026) Business, Consumer Services and Housing Agency <https://bcsh.ca.gov/calich/hdis.html> [as of June 5, 2026].
[15] *The American Affordability Tracker* (Apr. 2, 2026) Urban Institute <https://www.urban.org/data-tools/american-affordability-tracker> [as of June 5, 2026].

they have the resources to "live securely in their community."[16] Nearly every essential need for American families is rising much faster than earnings, including home and rental costs, health care plans, electricity cost, costs of groceries, and notably, gas prices.[17] In the past three months alone, gas prices have gone up an average of $1.00 per gallon.[18] California is home to unreachable housing prices for much of its population. The available jobs, too, are rapidly deteriorating as the labor market continues to constrict with employers making callous, painful and broad cuts to their workforce in favor of the comparatively minimal costs of using artificial-intelligence programs.[19] As a result, credit card delinquency rates, student loan rates, and most relevantly here, auto delinquency rates appear to be relentlessly growing in 2026.[20]

The rise of homelessness additionally has led to an increasing number of persons living in their vehicles.[21] In San Jose, an estimated 17% of people experiencing homelessness live in their vehicles, while in Sonoma County the estimate is 29%.[22] Notably, in Los Angeles, *almost half of the unsheltered population are estimated to live in their vehicles*.[23] Vehicles represent a critical last-resort for persons on the verge of losing shelter. As stated by Transfer Magazine, a publication of the Pacific Southwest Region University Transportation Center:

> A car is often shelter of last resort for housing-insecure people. If a person loses their housing and has a vehicle, that vehicle can prevent them from living on sidewalks and other public places. Tents and other makeshift shelters can offer protection from the elements, but cars tend to offer more safety and stability, and more mobility. A car can be locked to secure one's belongings, blends into the neighborhood in ways a sidewalk tent doesn't, and offers a way to reach jobs, schools, and services.[24]

For an unhoused person who utilizes their car not only as shelter, but as a means to get to their job, services, or medical needs, losing their car to impoundment is a tipping point that can lead to unsheltered homelessness.[25] This is particularly true, given that once a vehicle is towed, the person living in it often are unable to afford to recover their cars.[26]

Furthermore, the Sentencing Project released a four-part report that undertook a comprehensive analysis of persisting racial and economic inequities in the American criminal

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[16] *Ibid.*
[17] *Ibid.*
[18] *Ibid.*
[19] Wong, Q. *AI boom fuels California growth but leaves more workers jobless* (June 5, 2026) Los Angeles Times <https://www.latimes.com/business/story/2026-06-05/californian-conundrum-high-growth-but-high-unemployment> [as of June 5, 2026].
[20] *Supra,* at note 15.
[21] Giamarino, et. al., *Geographic and Regulatory Impacts on Vehicle Homelessness in Los Angeles* (June 28, 2022) <https://www.its.ucla.edu/publication/geographic-regulatory-impacts-vehicular-homelessness-los-angeles/> [as of June 5, 2026].
[22] Madeline Brozen, *Where you Go When Your Car is Home* (Jan. 2023), *Transfer Magazine* <https://transfersmagazine.org/magazine-article/issue-10/where-you-go-when-your-car-is-home/> [as of June 5, 2026].
[23] Giamarino, et. al., *Geographic and Regulatory Impacts on Vehicle Homelessness in Los Angeles* (June 28, 2022) <https://www.its.ucla.edu/publication/geographic-regulatory-impacts-vehicular-homelessness-los-angeles/> [as of June 5, 2026].
[24] Madeline Brozen, *Where you Go When Your Car is Home* (Jan. 2023), Transfer Magazine <https://transfersmagazine.org/magazine-article/issue-10/where-you-go-when-your-car-is-home/> [as of June 5, 2026].
[25] *Gorn, with thousands of Californians living in vehicles, lawsuit aims to stop cities from towing their homes* (June 23, 2020) <https://calmatters.org/economy/2018/09/lawsuit-homeless-vehicle-tow-california-impound/> [as of June 5, 2026].
[26] *Ibid.*

justice system. The report found one driver of carceral disparity relates to the damaging consequences of criminal legal contact, which are disproportionately experienced by communities of color.[27] Fines, fees, and predatory practices are inequitably experienced by justice-involved Americans and families.[28]

Criminal justice involvement often begins with system contact that stems, at least initially, from an infraction. Under current law, infractions can produce unpayable fees for some that can then balloon into crippling, life-altering debt. Moreover, system contact can quickly turn into a misdemeanor if the charged individual is unable to comply with established legal processes. While some individuals may be negligent or unwilling to abide by these processes, far too often justice-involved individuals are simply faced with impossible choices. Criminal convictions too often create lifelong disadvantage, particularly for African Americans.[29] Employers discriminate against job candidates who have criminal histories, especially against those who are Black, and application questions about criminal histories deter some people from applying to certain jobs and colleges altogether.[30] One study found discovered nearly half of unemployed men had a criminal conviction.[31]

Given the painful economic headwinds facing Californians and the likelihood that increased fines arising from this bill would disproportionately impact those already living on the margins, the timing and impact of this bill may be worth further evaluation.

6) **Argument in Support**: According to the bill's sponsor, the *California Association of Licensed Repossessors*, "we respectfully urge your support on Senate Bill 1338 by Senator Brian Jones, which would increase the fines for the infraction.

"Unfortunately, a violent and dangerous trend has emerged in the repossession industry. After a vehicle has been repossessed and is in transit, individuals-including the registered owner- follow and attempt to stop the repossessor's tow vehicle by using other vehicles to block exits, by boxing in the tow truck on residential streets or at intersections, or by otherwise obstructing the roadway. Once the repossessor's vehicle has been stopped, individuals attempt to unhook the repossessed vehicle from the tow truck, enter or sit inside the repossessed vehicle, sit on the tow vehicle, or stand in front of the tow truck to prevent it from leaving. In some cases, when they are unable to regain possession of the vehicle, individuals damage the repossessor's tow vehicle. This conduct creates serious public safety risks not only to the repossessor and the involved individuals, but also to law enforcement officers and passing motorists.

"SB 1338 does not expand repossession authority nor alter the breach-of-peace doctrine, nor change the definition of when a repossession must cease. It is a narrowly tailored public safety enforcement adjustment addressing post-repossession completion transport

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[27] Ghandnoosh, N and Trinka, L. *One in Five: How Mass Incarceration Deepens Inequality and Harms Public Safety* (Nov. 2, 2023) The Sentencing Project <https://www.sentencingproject.org/reports/one-in-five-disparities-in-crime-and-policing/> [as of June 5, 2026].
[28] *Ibid.*
[29] *Ibid.*
[30] *Ibid.*
[31] *Ibid.*

interference. This proposal amends Vehicle Code Section 10856 to reclassify interference with a repossessed vehicle after repossession has been lawfully completed

"Reclassifying this violation provides law enforcement with meaningful enforcement authority.

"It allows us to raise the penalties for interference.

"This will help avoid dangerous roadway obstruction and interference, to protect involved individuals and the general public, and preserve California's breach-of-peace doctrine.

"As licensed reposessor's we hold our profession to the highest integrity and believe SB 1338 will increase both public safety and safety of our repossessor colleagues. It is for these reasons that we seek your support of SB 1338 (Jones) when it comes before your committee."

7) **Argument in Opposition**: According to the *American Civil Liberties Union*, "The American Civil Liberties Union California Action must respectfully oppose SB 1338, which would increase the criminal penalties for interfering with the transportation of a vehicle by a repossession agency.

"SB 1338 will not improve public safety and may exacerbate the issue the bill aims to address. While we appreciate the latest amendments, SB 1338's approach of increased fines goes against extensive public safety research which demonstrates that increased sentences do not deter or prevent crime.1 In addition to failing to deter the behavior at issue, extracting increased fines from individuals only drives them further into economic desperation, making them less likely to be able to pay down their debts and more likely to have negative interactions with repossession agency employees.

"For these reasons, we must respectfully oppose SB 1338."

8) **Related Legislation**: AB 2437 (Chen) would make it a violation of the Vehicle Code to require a vehicle's legal owner or a legal owner's agent to present any documentation other than the documents specified to secure release of the vehicle or collateral to which the person is legally entitled. AB 2437 has been referred to the Senate Transportation Committee.

9) **Prior Legislation**: AB 2503 (Hagman), Chapter 390, Statutes of 2014, requires, among other things, a repossession agency to only transact business with a person or entity as an independent contractor, and prohibits a licensed repossession agency from allowing a person or entity, other than the qualified certificate holder or the owner or officer of the repossession agency, to manage the day-to-day operations, operate, control, or transact business under the license of the repossession agency, except as specified.

REGISTERED SUPPORT / OPPOSITION:

Support

California Association of Licensed Repossessors (Sponsor)
Daybreak Metro, INC

Opposition

ACLU California Action
All of Us or None
Californians United for a Responsible Budget
Ella Baker Center for Human Rights
Justice2jobs Coalition
LA Defensa
Legal Services for Prisoners With Children
Smart Justice California

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

Date of Hearing: June 30, 2026
Counsel: Dustin Weber

ASSEMBLY COMMITTEE ON PUBLIC SAFETY
Nick Schultz, Chair

SB 1354 (Archuleta) – As Amended June 24, 2026

SUMMARY: Prohibits military personnel of another state, territory, or district from entering, or causing something to enter, the state to perform military duty or law enforcement functions without the permission of the Governor, except as specified. Specifically, **this bill**:

1) States that military personnel of another state, territory, or district shall not enter, or cause something to enter, the state to perform military duty or law enforcement functions without the permission of the Governor.

2) Authorizes the Governor to delegate authority to grant permission to enter the state, as described, to the Adjutant General.

3) Specifies that this law does not apply to military personnel of another state, territory, or district who have been called into active federal service and who are acting under the authority of the President of the United States or the United States Secretary of Defense.

EXISTING FEDERAL LAW:

1) Establishes the conditions under which state militia forces are organized, trained, equipped and funded by the federal government, and authorizing their activation for specified federal missions while remaining under state command. (32 U.S.C. § 101 et. seq.)

2) Authorizes the federal government to activate state militia forces for specified federal missions and subsuming these forces under federal control. (10 U.S.C. § 10001 et. seq.)

3) Provides that whenever the President of the United States is unable with the regular forces to execute the laws of the United States, the President may call into federal service members and units of the National Guard of any State in such numbers as they consider necessary to execute those. (10 U.S.C. § 12406.)

EXISTING STATE LAW:

1) Provides that the Governor is commander in chief of a militia that shall be provided by statute, and may call it forth to execute the law. (Cal. Const., art. V, § 7.)

2) Ratifies California's participation in the Interstate Civil Defense and Disaster Compact for the purpose of providing mutual aid among the states in meeting any emergency or disaster from enemy attack or other cause, as specified. (Gov. Code, §§ 177-178.5)

3) Ratifies California's participation in the Emergency Management Assistance Compact, the purpose of which is to provide for mutual assistance between the states entering into this compact in managing any emergency or disaster that is duly declared by the governor of the affected state, whether arising from natural disaster, technological hazard, manmade disaster, civil emergency aspects of resource shortages, community disorders, insurgency, or enemy attack. (Gov. Code, §§ 179-179.9.)

4) Provides that any regularly employed law enforcement officer of the Oregon State Police, the Nevada Department of Motor Vehicles and Public Safety, or the Arizona Department of Public Safety is a peace officer in this state if several specified conditions are met, including that the adjoining state employing the officer confers similar rights and authority upon a member of the California Highway Patrol who renders assistance within that state. (Pen. Code, § 830.39.)

5) States that the Uniform Code of Military Justice (UCMJ) (Chapter 47 (commencing with Section 801) of Title 10 of the United States Code) and the rules and regulations adopted thereunder, together with the Manual for Courts-Martial, United States, are hereby adopted as a part of this code and shall govern and be applicable, except as otherwise provided in this code or in the California Manual for Courts-Martial or other regulations adopted by the Governor or the Adjutant General, to the active militia, including the California National Guard. (Mil. & Vets. Code, § 102.)

6) Provides that the militia of the State consists of the National Guard, State Guard and the Naval Militia – which constitute the active militia – and the unorganized militia, which consists of all persons liable to service in the militia, but not members of the National Guard, State Guard and the Naval Militia. (Mil. & Vets. Code, §§ 120-121.)

7) Provides that the Governor of the State, by virtue of his office, is the Commander in Chief of the Militia of the State. (Mil. & Vets. Code, § 140.)

8) Specifies that the staff of the Governor consists of the Adjutant General and such aides as the Governor designates from the personnel of the National Guard and Naval Militia to serve during his incumbency, as specified. (Mil. & Vets. Code, § 141.)

9) Provides that the Governor may order the active militia or any portion of it to perform military duty of every description, including necessary administrative duties, in this state or any other state or territory, as specified. (Mil. & Vets. Code, § 142.)

10) Provides that the Governor may call into active service any portion of the active militia as may be necessary, and if the number available be insufficient, the Governor may call into active service any portion of the unorganized militia as may be necessary, in any of the following events:

    a) In case of war, insurrection, rebellion, invasion, tumult, riot, breach of the peace, public calamity or catastrophe, as specified.

    b) Upon call or requisition of the President of the United States.

c) Upon call of any United States marshal in California, or upon call of any officer of the United States Army commanding an army, as specified, or upon call of any officer of the United States Air Force commanding an air force, as specified.

d) Upon call of the chief executive officer of any city or city and county, or of any justice of the Supreme Court, or of any judge of the superior court, or of any sheriff, setting forth that there is an unlawful or riotous assembly with intent to commit a felony, or to offer violence to person or property, or to resist the laws of the State of California or the United States or that there has occurred a public calamity or catastrophe requiring aid to the civil authorities.

e) Upon call of the sheriff setting forth that the civil power of the county is not sufficient to enable the sheriff to execute process delivered to them. (Mil. & Vets. Code, § 146.)

11) States that the Governor shall direct the Adjutant General to make rules and regulations in conformity with this code, as specified, which shall conform as nearly as practicable to those governing the United States Army, United States Air Force, and United States Navy. The rules and regulations shall have the same force and effect as the provisions of this code. (Mil. & Vets. Code, § 148.)

12) Establishes that a finding by the Governor that it is impracticable to conform rules and regulations to those governing the United States Army, United States Air Force, or United States Navy shall be conclusive and the rules and regulations shall have force and effect over inconsistent rules, regulations, directives, manuals, or practices governing any of the Armed Forces of the United States. (Mil. & Vets. Code, § 148.)

13) Provides that the Adjutant General is the chief of staff to the Governor, subordinate only to the Governor and is the commander of all state military forces. (Mil. & Vets. Code, § 160.)

14) States that the Adjutant General shall perform such duties as are prescribed in this code and such additional duties consistent with the regulations and customs of the United States Army, United States Air Force, and the United States Navy as may be prescribed by the Governor. He shall issue all orders in the name of the Governor. (Mil. & Vets. Code, § 163.)

15) Defines "state of war emergency" as "the condition that exists immediately, with or without a proclamation thereof by the Governor, whenever this state or nation is attacked by an enemy of the United States, or upon receipt by the state of a warning from the federal government indicating that an enemy attack is probable or imminent." (Gov. Code, § 8558, subd. (a).)

FISCAL EFFECT: Unknown

COMMENTS:

1) **Sponsor**: Author-sponsored

2) **Author's Statement**: According to the author, "The Title 10 activation of National Guard personnel across the country this past summer drew attention to state and federal authorities governing the use of National Guard in domestic situations. While Governors do not have command and control over their National Guards or other Military Forces in a Title 10 (Federal Active Duty) status, they do retain command and control over their National Guards

in the traditional Title 32 Status and for state emergency activations. This legislation protects state sovereignty by ensuring that military personnel from other states only enter California for appropriate missions and training. Other states' military forces should not be used to enforce federal law in California unless activated under the correct federal authority."

3) **Effect of the Bill**: Under existing federal law, members of a state's National Guard receive orders under one of two legal frameworks: Title 32 or Title 10 of the United States Code. The official website of the Uniform Code of Military Justice describes the distinction between these types of orders as follows:

> Title 10 orders are issued under the authority of the president and involve federal active-duty military service. This means that when a National Guard member is activated under Title 10 U.S.C., they are directed by the president to report for federal active-duty military service. These orders typically involve overseas mobilizations and have a focus on national defense. On the other hand, Title 32 orders are authorized by a state's governor and involve active duty under state control, with pay and benefits provided by the federal government. Activation under Title 32 U.S.C. means that the National Guard member performs active duty under state control but receives pay and benefits from the federal government. These orders are often used for natural disasters and state-level missions.[1]

Outside of these federal frameworks, members of the National guard may be ordered to active duty by the governor of their state. California law authorizes the Governor, who is designated the Commander in Chief of the militia of the state, to "order the active militia or any portion of it to perform military duty of every description, including necessary administrative duties." (Mil. & Vets. Code, §§ 140, 142.)

This bill expressly prohibits military personnel of another state, territory, or district from entering, or causing something to enter, the State of California to perform military duty or law enforcement functions without the permission of the Governor. This prohibition, however, does not apply to such military personnel who have been activated under Title 10 and are acting under the authority of the President or the Secretary of Defense. SB 1354 permits the Governor to delegate authority to grant permission to enter the state to the Adjutant General.

Other states already have similar provisions addressing this issue. Indeed, at least seven other states (Texas, Kansas, Maryland, Oklahoma, Idaho, North Dakota, and Washington) have enacted such laws, all of which are substantially similar to SB 1354.[2]

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[1] "Title 10 vs Title 32 Orders – What is the Difference?" *Uniform Code of Military Justice.* <https://ucmj.us/title-10-vs-title-32-orders-what-is-the-difference/> [as of June 23, 2026].

[2] *Governor Bob Ferguson signs bill restricting armed forces from entering Washington* (Apr. 21, 2025) Office of Washington Governor Bob Ferguson <https://governor.wa.gov/news/2025/governor-bob-ferguson-signs-bill-restricting-armed-forces-entering-washington>; *Blocking Unauthorized Militias from Entering WA* (Mar. 10, 2025) Office of Wash. Rep. Sharlett Mena (D-Tacoma) <https://housedemocrats.wa.gov/mena/2025/03/10/blocking-unauthorized-militias-from-entering-wa-passes-house/> [as of June 23, 2026].

Recent amendments taken by the author would include language stating that 1) military compacts entered into between one or more states prior to January 1, 2027, and 2) an educational course or training exercise involving military personnel of another state, territory, or district taking place in California would not apply to the limits prescribed in SB 1354. These amendments help clarify how situations like training, education, and interstate assistance deployments would be handled should this bill become law.

4) **Background**: SB 1354 is similar to recent laws enacted in other states that require governors to approve the entry of outside military forces for military duty. The author's stated intent of this bill is to prohibit military personnel from other states or territories, when not federalized under Title 10, from entering California for military or law enforcement purposes without explicit approval from the Governor.

While this bill prohibits out-of-state military personnel from performing "military duty" or "law enforcement functions," it does not define these terms. There are definitions elsewhere in code and statute, however, that could provide guidance. In one area of the code, California law defines "active military duty" as "full-time military duty status in the active uniformed service of the United States, including members of the National Guard and the State Reserve on active duty orders pursuant to [specified laws]." (Educ. Code, § 48300, subd. (a).) "Military service" is also defined in California statute "as to a member of the militia, full-time active state service or full-time active federal service. As to a person who is not a member of the militia, 'military service' means full-time active duty for a period in excess of seven days in any 14-day period." (Mil. & Vets Code, § 400, subd. (c).)

No definition of "law enforcement function(s)" appears codified in California or even federal statute.

a) California Military Department

In California, the Military Department is led by The Adjutant General (TAG), who is the top military official in the state and oversees both the California National Guard and the State Guard. (Mil. & Vets Code, § 160.) The Governor acts as the Commander in Chief of the state's militia. (Cal. Const., art. V, § 7.) According to the author, California law currently lacks a clear requirement for military forces from other states to seek permission from the Governor before entering the state for military or law enforcement duties. This topic has gained some attention recently due to ongoing debates surrounding the deployment of military personnel in domestic settings. A notable example, among others cited below, was the activation of National Guard troops under Title 10 in Los Angeles in June 2025, which led to litigation concerning federal authority, state oversight, and the appropriate role of military forces in civilian situations.[3]

b) National Guard Deployments

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[3] Office of the Governor, *Trump's illegal National Guard deployment in Los Angeles cost taxpayers $120 million* (Sep. 4, 2025) <https://www.gov.ca.gov/2025/09/04/trumps-illegal-national-guard-deployment-in-los-angeles-cost-taxpayers-120-million/> [as of June 23, 2026].

The National Guard serves as a backup for the U.S. Armed Forces and can also help state governors during civil unrest, natural disasters, or health emergencies.[4] This dual status nature of the National Guard operates in what's called "Title 32 status," which is a long-standing source of federal authority that "facilitates a range of important domestic National Guard missions." (32 U.S.C. § 502 (f).)[5] This is one of three ways National Guard members can serve.[6] In "State Active-Duty status," they work on missions driven by the state, following state command, and using state resources.[7] When in Title 10 status, the Guard is on federal duty, meaning they follow federal command and are funded by the federal government.[8] Title 32 status is something of a middle ground. They remain under state control while being able to carry out federal tasks, funded federally and receiving federal benefits.[9] Importantly, because they are under state command in Title 32 status, they are not considered federalized and can take part in civilian law enforcement activities provided those actions are authorized under state law.[10]

Beyond deploying a state's national guard to support federal operations within its own territorial boundaries, the President has on many occasions invoked specific federal law authorizing him to federalize National Guard units from one state and deploy them into another, often over the explicit objections of the target state's governor.[11] Since his return to office in 2025, President Trump has taken extraordinary steps with Guard personnel to domestically enforce his large-scale anti-immigration agenda, including the domestic deployment of Army National Guard troops to protect federal personnel and property. President Trump cited contested sources of federal authority and ultimately deployed a total of 4,000 California National Guard troops to Los Angeles, which at times appeared less concerned with restoring order and instead geared toward fueling a cycle of confrontation and seeking support for a narrative that the city was engulfed in chaos.[12] After another legal dispute between the State of California and the Trump Administration, in December 2025, the federal government ultimately withdrew its legal effort to block a lower court order permanently ending the federalization of the California National Guard.[13]

In September 2025, the President deployed 400 federalized members of the Texas and California National Guards to protect a federal building in Oregon, a move that was immediately challenged in federal court by both Oregon and California. Within days of the President deploying National Guard troops to Oregon, the United States District Court for the

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[4] *What Does the U.S. National Guard Do?* (Jan. 29, 2026) Council on Foreign Relations <https://www.cfr.org/backgrounders/what-does-us-national-guard-do> [as of June 23, 2026].
[5] Nunn, *The President's Power to Call Out the National Guard Is Not a Blank Check* (Nov. 18, 2024) Brennan Center for Justice <https://www.brennancenter.org/our-work/analysis-opinion/presidents-power-call-out-national-guard-not-blank-check> [as of June 23, 2026].
[6] *Ibid.*
[7] *Ibid.*
[8] *Ibid.*
[9] *Ibid.*
[10] *Ibid.*
[11] See *ibid.*
[12] Pager, *Trump Jumps at the Chance for a Confrontation in California Over Immigration* (June 8, 2025) N.Y. Times <https://www.nytimes.com/2025/06/08/us/politics/trump-california-immigration.html> [as of June 23, 2026].
[13] *Attorney General Bonta Marks Major Litigation Victory as Trump Administration Backs Away from Its Efforts to Federalize and Deploy California National Guard* (Dec. 31, 2025) Office of Attorney General Rob Bonta. <https://oag.ca.gov/news/press-releases/attorney-general-bonta-marks-major-litigation-victory-trump-administration-backs> [as of June 23, 2026].

District of Oregon issued an order enjoining the President from deploying any National Guard forces, whether from California, Texas, or any other state or the District of Columbia, into Oregon. (*State of Oregon et al v. Trump et al* (Oct. 5, 2025) Case No: 3:25-cv-1756-IM.)

The U.S. Supreme Court recently heard the Executive Branch's application for a stay but denied overturning part of the lower courts' holding that granted a temporary restraining order (TRO) in favor of the State of Illinois that prevented the President from federalizing National Guard troops. (*Trump v. Illinois* (2025) 146 S.Ct. 432; see also *Illinois v. Trump* (7th Cir. 2025) 155 F.4th 929, *State v. Trump* (N.D. Ill. Oct. 10, 2025) 2025 U.S. Dist. LEXIS 201113.) In its opinion denying the federal government's application for a stay, the Court addressed the meaning of the term "regular forces" as it is used in section 12406(3) of Title 10 of the United States Code. (*Trump v. Illinois* (2025) 146 S.Ct. 432.) This is the portion of federal law the President invoked in both the Oregon and Illinois cases and which allows the President to federalize the National Guard when they are "unable with the regular forces to execute the laws of the United States." (*Ibid*; see also 10 U.S.C. § 12406(3).) In a 6-3 decision, the Court wrote:

> The term "regular forces" in §12406(3) likely refers to the regular forces of the United States military. This interpretation means that to call the Guard into active federal service under §12406(3), the President must be "unable" with the regular military "to execute the laws of the United States." Because the statute requires an assessment of the military's ability to execute the laws, it likely applies only where the military could legally execute the laws. Such circumstances are exceptional: Under the Posse Comitatus Act, the military is prohibited from "execut[ing] the laws" "except in cases and under circumstances expressly authorized by the Constitution or Act of Congress." 18 U. S. C. § 1385. So before the President can federalize the Guard under §12406(3), he likely must have statutory or constitutional authority to execute the laws with the regular military and must be "unable" with those forces to perform that function. (*Trump v. Illinois* (2025) 146 S.Ct. 432.)

Importantly, the Court did not fully decide these issues on the merits but rather declined to grant the President's request to enjoin the TRO issued by the lower court. SB 1354 would clarify some arguably ambiguous areas of law, but conflicts almost certainly will continue over the bounds of executive authority under federal and state law.

5) **Argument in Support**: According to the *California Public Defenders Association*, "SB 1354 would make it a crime for military personnel from another state, territory, or district to enter California to perform military or law enforcement functions without the express permission of the Governor.

"As public defenders, we have long witnessed how unauthorized and overly aggressive law enforcement actions—particularly those involving militarized tactics and racial profiling—inflict deep and lasting harm on our clients and communities. SB 1354 is a critical safeguard affirming that California will not tolerate unlawful or uncoordinated incursions by outside state or federal forces that threaten our residents' constitutional rights, safety, and peace of mind.

"The bill's clear prohibition on out-of-state, unapproved military activity reinforces the Governor's constitutional authority as Commander in Chief of the state militia and ensures California retains control over any armed or law enforcement operations conducted within its borders. This measure helps prevent the misuse of military power in civilian contexts by the Immigration and Customs Enforcement —especially against communities that already experience disproportionate policing and surveillance.

"By establishing meaningful penalties for violations, SB 1354 sends a firm message that Californians value accountability, transparency, and respect for state sovereignty. It aligns with our state's longstanding commitment to due process, equal protection, and community safety built on trust rather than intimidation."

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

7) **Related Legislation**: None.

8) **Prior Legislation**:

   c) SB 1097 (Laird), Chapter 129, Statutes of 2024, exempted officers or enlisted persons of the State Guard from any posse comitatus or jury duty service while on active military orders.

   d) SB 193 (Committee on Veterans Affairs), Chapter 533, Statutes of 2015, deleted outdated references to executive orders and statutes creating the Manual for Courts-Martial and the UCMJ, updated specified references, and provided that the provisions apply except as otherwise provided in the California Manual for Courts-Martial or other regulations adopted by the Governor or the Adjutant General.

   e) SB 807 (Correa), Chapter 355, Statutes of 2012, specified that the state active duty force consists of service members in active state service when ordered by the Governor; and revised conditions for state active duty for service members, as provided, and authorized the Adjutant General to promulgate regulations in conformity with these provisions.

   f) AB 2579 (S. Runner), Chapter 358, Statutes of 2006, updated California military law in the area of punishments available for state courts-martial to make them more consistent with comparable provisions in federal military law.

   g) SB 1025 (Craven), Chapter 90, Statutes of 1989, adopted the federal UCMJ and Manual for Courts-Martial for the State of California's application to its active militia, including the California National Guard.

REGISTERED SUPPORT / OPPOSITION:

Support

California Public Defenders Association

Opposition

None submitted.

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

Date of Hearing: June 30, 2026
Counsel: Dustin Weber

ASSEMBLY COMMITTEE ON PUBLIC SAFETY
Nick Schultz, Chair

SB 1365 (Allen) – As Amended May 18, 2026

SUMMARY: Authorizes the city attorney of any city with a population in excess of 900,000 people to initiate and prosecute actions violating California's antitrust laws (i.e., Cartwright Act), as defined, on behalf of the city or any public agency or political subdivision, or on behalf of natural persons residing in the city. Specifically, **this bill**:

1) Establishes that the city attorney of any city with a population in excess of 900,000 may prosecute the action whenever it appears that the activities giving rise to prosecution or the effects of the activities occur primarily within the city.

2) Requires the city attorney to file with the Attorney General and the district attorney of the county at least 30 days prior to the filing of the action a copy of the proposed complaint together with a confidential memorandum and report explaining the facts giving rise to the proposed prosecution and supporting the filing of the new complaint.

3) Provides that in any action prosecuted, a city attorney of any city with a population in excess of 900,000 may exercise all of the powers conferred on the Attorney General provided that every contract or agreement by a city attorney shall first be approved by the governing authority of the agency in their city.

4) Provides that at any time within 30 days after being notified of a city attorney bringing an action, that political subdivision may, by formal resolution of its governing body or as otherwise specifically provided by applicable law, withdraw the authority of the city attorney to bring the action.

5) Establishes that the city attorney shall retain out of the proceeds of, if any, resulting from the action, an amount equal to the expense incurred by the city attorney in the investigation and prosecution of the action or an amount equal to 10 percent of the total recovery obtained by the city attorney, whichever is greater. Where the city is the class representative, through the city attorney, of political subdivisions located within the city, the city attorney shall retain the proceeds, if any, of any attorney's fees awarded by the court in which the action is pending to the city attorney, resulting from the class representation.

6) Requires all proceeds retained by a city attorney to be deposited into the appropriate account as provided by law.

7) Includes a city attorney of a city with a population in excess of 900,000 in the exception for the requirement that a person who commences, by writ or appeal, any proceeding in the Supreme Court of California or a state court of appeal in which a defined violation is alleged or any application is in issue shall serve notice thereof upon the Attorney General within

three days after the commencement of the proceeding, provided that the time may be extended by the Chief Justice or presiding justice for good cause shown. Relief, temporary or permanent, shall not be granted until proof of service of this notice is filed with the court.

8) Adds a city attorney of a city with a population in excess of 900,000 in the authorization to institute proper proceedings in a court of competent jurisdiction for the forfeiture of charter rights, franchises, or privileges and powers exercised by the corporation or association, and for the dissolution of the corporation or association, upon a defined violation of the law.

9) Includes a city attorney of a city with a population in excess of 900,000 in the authorization to enforce revocation of a foreign corporation or association that violates specified provisions by bringing proper proceedings by injunction or otherwise.

10) Adds a city attorney of a city with a population in excess of 900,000 in the authorization for the court in a civil action to grant mandatory injunctions as may be reasonably necessary to restore and preserve fair competition in the trade or commerce affected by a defined violation.

11) Provides that, if the action was initiated and prosecuted by a city attorney of a city with a population in excess of 900,000, then 100 percent of the amounts deposited in with county treasurer of the county shall be paid as soon as practicable to the treasurer of the city in which the prosecution is conducted.

12) States that if the action was initiated and prosecuted jointly by the Attorney General and a city attorney of a city with a population in excess of 900,000 or jointly by more than one city attorney of a city with a population in excess of 900,000, those amounts shall be paid to the Treasurer and to the treasurer or treasurers of the city or cities participating in the prosecution in a proportion agreed upon by the agencies jointly prosecuting the case and as approved by the court.

13) Includes a district attorney or a city attorney of a city with a population in excess of 900,000 in the authorization to recover a civil penalty of not more than $1,000,000 that shall be assessed and recovered in any civil action against any person, corporation, or business entity for specified violations.

14) Includes a district attorney and city attorney in the prohibition against prosecution or subjection to penalties on account of any transaction, matter, or thing concerning persons who may testify or produce evidence in the corresponding action or proceeding.

15) Adds the treasurer of the city in which the prosecution is conducted in the authorization that specified penalties collected shall accrue to that agency and be deposited, as defined.

16) States that powers granted to the Attorney General, as defined, shall be granted to the city attorney of any city having a population in excess of 900,000 when that city attorney reasonably believes that there may have been a specified violation. The city attorney is additionally subject to other provisions of the law.

17) Provides that a rental price increase greater than the amount prohibited in the price gouging during states of emergency statute is not unlawful if that person can prove either of the following:

    a) That an increase was contractually agreed to by the tenant prior to the proclamation or declaration.

    b) That the increase was directly attributable to additional costs for repairs or additions beyond normal maintenance incurred within the year prior to the proclamation or declaration and either of the following is true:

        i) The housing was rented, advertised for rent, or offered for rent at the time the costs were incurred.

        ii) That person can prove that within a year before the proclamation or declaration, the intent to offer the housing for rent within six months of the repair or addition already existed.

18) States that housing advertised, offered, or charged at a daily rate following a declaration or proclamation of emergency, but that was not advertised, offered, or charged at a daily rate in the year prior to the declaration or proclamation of emergency, shall be subject to a rental price that is one-thirtieth of the rental price described.

19) Makes legislative findings and declarations.

20) Makes technical and conforming changes.

EXISTING FEDERAL LAW:

1) Establishes the Sherman Antitrust Act of 1890 which prohibits every contract, combination in the form of trust or otherwise, or conspiracy, in restraint of trade or commerce among the states or with foreign nations, as well as the monopolization or attempt to monopolize any part of the trade or commerce among the several states, or with foreign nations, by a person or a combination or conspiracy of multiple persons. (15 U.S.C. §§ 1-2.)

EXISTING STATE LAW:

1) Establishes the Cartwright Act as California's antitrust law that prohibits anticompetitive activity. (Bus. & Prof. Code, § 16000 et. seq.)

2) Provides that except as expressly provided, every trust is unlawful, against public policy, and void, and that any contract or agreement in violation of the Cartwright Act is absolutely void and not enforceable. (Pen. Code, §§ 16722, 16726.)

3) Creates a private right of action for persons harmed by the unlawful conduct governed by the Cartwright Act, specifies damages that may be awarded thereto, and permits the Attorney General to bring an action on behalf of the state or any of its political subdivisions or agencies to recover these damages, as specified. (Bus. & Prof. Code, § 16750, subd. (a).)

4) Permits the district attorney of any county to prosecute on behalf of the county or any city or public agency or political subdivision within the county to recover the damages referenced above when it appears that the activities giving rise to the prosecution or the effects of such activities occurred primarily in the county. (Bus. & Prof. Code, § 16750, subd. (a).)

5) Permits the Attorney General or the district attorney, upon a violation of the Cartwright Act by a corporation or association, to institute court proceedings for the forfeiture of charter rights, franchises, or privileges and powers exercised by the corporation or association, and for the dissolution of the corporation or association, and sets forth similar provisions for the revocation of a foreign corporation or association's powers, franchises, or functions for a violation of the Act. (Bus. & Prof. Code, §§ 16752-16753.)

6) Provides that a violation of the Cartwright Act is a conspiracy against trade, and that knowingly engaging or participating in such a conspiracy is a crime, punishable as specified. (Bus. & Prof. Code, § 16755 subd. (a).)

7) Provides a district attorney with all powers granted to the Attorney General to investigate or prosecute violations of law, as specified, when the district attorney reasonably believes that there may have been a violation of the Cartwright Act, Authorizes the Attorney General to file a civil action in the name of the people of the State of California, as *parens patriae* on behalf of natural persons residing in the state, for a violation of the Cartwright Act, as specified. (Bus. & Prof. Code, §§ 16759-16760.)

8) Authorizes the Governor of California to declare a state of emergency under certain circumstances and establishes related duties and powers. (Gov. Code, § 8625 et. seq.)

9) Authorizes the governing body of a city, a county, a city and county, or an official designated by that governing to declare a local emergency, and establishes related duties and powers. (Gov. Code, § 8630 et. seq.)

10) Prohibits, for 30 days following a proclamation or declaration of emergency, the sale, or offer to sell, any consumer food items or goods, goods or services used for emergency cleanup, emergency supplies, medical supplies, home heating oil, building materials, housing, transportation, freight, and storage services, or gasoline or other motor fuels for a price of more than 10% greater than the price charged before the proclamation or declaration of emergency. (Pen. Code, § 396, subd. (b).)

11) Prohibits, for 180 days following a proclamation or declaration of emergency, a contractor from selling or offering to sell any repair or reconstruction services or any services used in emergency cleanup for a price of more than 10% greater than the price charged before the proclamation or declaration of emergency. (Pen. Code, § 396, subd. (c).

12) Prohibits, for 30 days following a proclamation or declaration of emergency, an owner or operator of a hotel or motel from increasing the hotel or motel's regular rates more than 10% than the price charged before the proclamation or declaration of emergency. (Pen. Code, § 396, subd. (d).)

13) Specifies that a violation of the price gouging statute is a misdemeanor punishable by imprisonment in county jail for up to a year, by a fine of not more than $10,000, or both. (Pen. Code, § 396, subd. (h).)

14) Provides that upon the proclamation of a state of emergency or local emergency, and for a period of 30 days following that proclamation, or any period the proclamation is extended, it is unlawful to increase the rental price advertised, offered or charged for housing, to an existing or prospective tenant, by more than 10 percent. (Pen. Code, § 396, subd. (e).)

15) Specifies that a greater rental price is not lawful if the person or entity setting the price can prove that the increase is directly attributable to additional costs for repairs or additions beyond normal maintenance that were amortized over the rental term that caused the rent increase, or that an increase was contractually agreed upon prior to the proclamation of emergency. (Pen. Code, § 396, subd. (e).)

16) Provides that it shall not be defense to prosecution that an increase in rental price was based on the length of the rental term, the inclusion of additional goods or services, except as specified with respect to furniture, or that the rent was offered by, or paid by, an insurance company, or other third party, on behalf of a tenant. (Pen. Code, § 396, subd. (e).)

17) Specifies that, despite the proclamation of a state of emergency, a landlord may not charge a price greater than the amount authorized by a local rent control ordinance. (Pen. Code, § 396, subd. (e).)

18) Defines a "trust" under the Cartwright Act as "a combination of capital, skill, or acts by two or more persons for any of several specified purposes." (Bus. & Prof. Code, § 16720.)

19) Defines "housing" as any rental housing with an initial lease term of no longer than one year, including, but not limited to, a space rented in a mobilehome park or campground. (Pen. Code, § 396, subd. (j)(10).)

20) Defines "rental price" for housing as any of the following:

    a) For housing rented within one year prior to the time of the proclamation or declaration of emergency, the actual rental price paid by the tenant. For housing not rented at the time of the declaration or proclamation, but rented, or offered for rent, within one year prior to the proclamation or declaration of emergency, the most recent rental price offered before the proclamation or declaration of emergency. For housing rented at the time of the proclamation or declaration of emergency but which becomes vacant while the proclamation or declaration of emergency remains in effect and which is subject to any ordinance, rule, regulation, or initiative measure adopted by any local governmental entity that establishes a maximum amount that a landlord may charge a tenant for rent, the actual rental price paid by the previous tenant or an amount that equals 160 percent of the fair market rent, whichever is greater. This amount may be increased by 5 percent if the housing was previously rented or offered for rent unfurnished, and it is now being offered for rent fully furnished. This amount shall not be adjusted for any other good or service, including, but not limited to, gardening or utilities currently or formerly provided in connection with the lease.

b) For housing not rented and not offered for rent within one year prior to the proclamation or declaration of emergency, 160 percent of the fair market rent established by the United States Department of Housing and Urban Development. This amount may be increased by 5 percent if the housing is offered for rent fully furnished. This amount shall not be adjusted for any other good or service, including, but not limited to, gardening or utilities currently or formerly provided in connection with the lease.

c) Housing advertised, offered, or charged, at a daily rate at the time of the declaration or proclamation of emergency, shall be subject to the rental price applicable to housing rented within one year prior to the proclamation or declaration of emergency, if the housing continues to be advertised, offered, or charged, at a daily rate. Housing advertised, offered, or charged, on a daily basis at the time of the declaration or proclamation of emergency, shall be subject to the rental price specified for housing not rented and not offered for rent within one year prior to the proclamation or declaration of emergency, if the housing is advertised, offered, or charged, on a periodic lease agreement after the declaration or proclamation of emergency.

d) For mobile home spaces rented to existing tenants at the time of the proclamation or declaration of emergency and subject to a local rent control ordinance, the amount authorized under the local rent control ordinance. For new tenants who enter into a rental agreement for a mobile home space that is subject to rent control but not rented at the time of the proclamation or declaration of emergency, the amount of rent last charged for a space in the same mobile home park. For mobile home spaces not subject to a local rent control ordinance and not rented at the time of the proclamation or declaration of emergency, the amount of rent last charged for the space. (Pen. Code, § 396, subd. (j)(11).)

21) Contains legislative findings that during a state of emergency or local emergency, including, resulting from natural or manmade disasters, some merchants have taken unfair advantage of consumers by greatly increasing prices for essential consumer goods and services. While the pricing of consumer goods and services is generally best left to the marketplace under ordinary conditions, when a declared state of emergency or local emergency results in abnormal disruptions of the market, the public interest requires that excessive and unjustified increases in the prices of essential consumer goods and services be prohibited. (Pen. Code, § 396, subd. (a).)

FISCAL EFFECT: Unknown

COMMENTS:

1) **Sponsor**: Los Angeles City Attorney

2) **Author's Statement**: According to the author, "In January of 2025, Pacific Palisades and Altadena experienced fires that killed 31 people and destroyed thousands of homes. To this day, tens of thousands of displaced residents are still living in temporary housing as they navigate the re-build process.

"Existing California law provides people who are affected by a state of emergency protections against price gouging. Rental housing prices are not permitted to increase more

than 10 percent above the prices charged immediately prior to the emergency. However, some have attempted to circumvent these protections through longer lease lengths or with rents charged at daily rates.

"Additionally, the fires have highlighted a lack of robust enforcement of existing protections against anti-competitive business practices under the Cartwright Act. There is already evidence of these practices impacting fire survivors in the Los Angeles region. Approximately 40% of fire impacted lots and about two out of every five lots that sell in the Pacific Palisades, Altadena, and Malibu areas have been purchased by real estate developers. Homeowners have reported that investors are making low-ball offers that some desperate fire victims feel forced to accept.

"SB 1365 improves enforcement of anti-competitive business practice restrictions to protect vulnerable disaster victims. This bill enhances existing rent gouging protections by closing lease length and day rate loopholes and provides authority to City Attorneys of large cities to enforce the Cartwright Act to protect consumers and prohibit anti-competitive business practices."

3) **Effect of the Bill**: Price gouging generally refers to those selling retail goods or services significantly increasing prices after a natural disaster or other state of emergency. California's price gouging statute prohibits selling or offering to sell certain goods or services for a price more than 10 percent greater than the price charged immediately prior to a declared state of emergency. (Pen. Code, § 396, subd. (b).) This prohibition applies when the President of the United States or the Governor proclaims a state of emergency, or when the executive officer of a county or city declares a local emergency. (*Ibid.*) Currently, price gouging is prohibited for 30 or 180 days after an emergency is declared, depending on the goods or services at issue, but an extension of the price gouging protections can be declared by executive order. (Pen. Code, § 396, subds. (b)-(e).) A violation of the prohibition is punishable as a misdemeanor by up to one year in county jail or a fine of $10,000, or by both. (Pen. Code, § 396, subd. (h).) Price gouging is also an unlawful business practice that can be civilly enforced by specified public prosecutors or through a private right of action. (Bus. & Prof. Code, § 16750 et seq.)

The price gouging protections also apply to rental housing, expressly prohibiting landlords from raising rent by more than 10 percent for both current tenants or new renters in the 30-day period after the emergency is declared, which may be extended by subsequent emergency orders. (Pen. Code, § 396, subd. (e).) Under SB 1365, however, a landlord may raise the rent by more than 10 percent if the increase was agreed upon by the landlord and tenant prior to the declaration of emergency, or if they can prove that the increase is directly attributable to higher costs for significant repairs or improvements beyond routine maintenance that accrued over the rental term.

According to the author, during recent attempts by the Los Angeles City Attorney to enforce price gouging protections in that city, landlords have allegedly used this latter exemption as a loophole by beginning a retrofit of a rental unit and hiking up rental prices beyond the 10 percent cap. Accordingly, this bill modifies the maintenance exemption, providing instead that a landlord may increase the rent when the increase is tied to higher costs for repairs or additions beyond routine maintenance incurred in the year prior to the emergency declaration, but only when one of the following conditions is met—either the housing was

rented or offered for rent at the time the costs were incurred or the landlord can prove that within a year before the emergency declaration, the landlord intended to offer the housing for rent within six months of the repair or addition.

Existing law includes an extensive and fact-specific definition of "rental price" that applies the 10 percent cap differently depending on whether the unit had been rented within one year prior to the emergency declaration. (Pen. Code, § 396, subd. (g)(11).) For new rentals, "rental price" is defined as 160 percent of the fair market rent established by the U.S. Department of Housing and Urban Development (HUD), which may be augmented by five percent if the unit is offered fully furnished. (*Ibid.*) The "rental price" provision also specifies that units offered or charged at a daily rate are subject to the same rules as other units rented or offered for rent within one year prior to the emergency declaration if they continue to be offered at a daily rate post-declaration. (*Ibid.*) Daily rate housing that is offered or charged pursuant to a periodic lease agreement after the emergency declaration, however, is subject to the same rules as new rentals. (*Ibid.*) This bill specifies that housing that is offered or charged at a daily rate after the emergency declaration but was not offered or charged at such a rate prior to the emergency is subject to a rental price that is one-thirtieth of the price that could be charged or offered for a new rental, i.e., 1/30 of 160 percent of the fair market value determined by HUD.

The definition of "housing" for the purposes of section 396 includes "any rental housing with an initial lease term of no longer than one year, including, but not limited to, a space rented in a mobilehome park or a campground." (Pen. Code, § 396, subd. (g)(10).) The clause limiting the definition to units with an initial lease term of no longer than one year, however, was suspended by the Governor's Executive Order N-17-25 (EO N-17-25).[1]

4) **Governor's EO N-17-25:** After the January 2025 Palisades and Eaton fires in Los Angeles County, many homeowners had their properties significantly damaged or completely destroyed. Residents within the affected areas reported being solicited almost immediately after the fires to sell their properties, particularly in Altadena.[2] In addition to disaster vultures attempting to buy devalued properties, many landlords boosted rental prices in an effort to turn a profit on the destruction.[3] Indeed, a new report suggests that despite the activation of price gouging protections and threats by officials to crack down on bad actors, the vast majority of price gouging behavior went unpunished.[4]

Another housing challenge in the wake of the fires was the decision by many landlords to hold rental housing vacant instead of list it for rent in an attempt to avoid rental prices capped well below market value by California's price gouging statute. According to one Los Angeles-based property management service owner, posting to his social media account,

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[1] Governor Gavin Newsom, Executive Order N-17-25. Issued 4 February 2025. <https://www.gov.ca.gov/wp-content/uploads/2025/02/EO-N-17-25.pdf> [as of June 16, 2026].
[2] *Fire Ravaged Altadena Attracting Real Estate Vultures Eyeing Deals* (Jan. 15, 2025) O.C. Register <https://www.ocregister.com/2025/01/15/fire-ravaged-altadena-attracts-real-estate-vultures-eyeing-deals/> [as of June 16, 2026].
[3] Briggs, et al. *Rent Gouging After the LA Wildfires: How Landlord Crime Went Unpunished* (Jan. 2026) The Rent Brigade <https://static1.squarespace.com/static/67931cff4d613f32d7b66deb/t/6976fdf8bdbdde08d2e4baaa/1769405944837/TRB-Year_in_Review_Report_012526-final.pdf> [as of June 16, 2026].
[4] *Ibid.*

"LA-area leasing agents & property managers: The correct response, if an owner asks you to price a vacancy in a way that violates the anti-gouging law, is 'no.' You follow the law regarding pricing. And if that would mean taking a price that doesn't make sense, you hold the unit vacant (which is, of course, also legal)."[5]

In response to this and other housing issues related to the Palisades and Eaton fires, Governor Newsom issued EO N-17-25 on February 4, 2025, which, among others, included the following finding:

> Whereas protections against price gouging for rental housing safeguard against unjustified and opportunistic price surges in times of emergency, and for housing that has no pre-emergency baseline price because it was not recently rented California's price gouging law caps rental prices based on federal estimates of "fair market rent," but a careful balance is necessary to ensure these provisions accurately reflect the reasonable costs of housing in Los Angeles County and do not discourage available housing from coming on the market.[6]

Accordingly, EO N-17-25 suspended certain provisions of the price gouging law capping rental prices to the extent that they applied to single family homes of four bedrooms or more within certain zip codes. The EO also suspended a component of the price gouging law's definition of "housing" that limited the application of the price gouging statute to rental housing "with an initial lease term of one year." The EO suspended that limitation by applying the definition to any rental housing, regardless of the initial lease term. SB 1365, among other things, seeks to codify this latter definitional provision in the price gouging statute and address other potential loopholes revealed in the aftermath of the Palisades and Eaton fires. In 2026, fires have already started taking hold in some parts of Southern California.[7]

5) **Argument in Support**: According to the *California Federation of Labor Unions (AFL-CIO)*, "As highlighted by the devastating 2025 Los Angeles fires, existing price gouging protections have proven insufficient to prevent bad actors from taking advantage of vulnerable renters. Tens of thousands of displaced residents were forced into an already strained housing market, only to encounter exploitative rent increases.

"SB 1365 closes three critical loopholes that have weakened enforcement of existing price gouging laws by ensuring protections apply to all rental agreements regardless of length, adding daily rates to long-term rental price protections, and expanding enforcement authority under the Cartwright Act to city attorneys in large jurisdictions.

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[5] Schrupp, *Newsom's office clarifies anti-price-gouging rules after AG's divergent warning* (Jan. 22, 2025) The Center Square <https://www.thecentersquare.com/california/article_644c993c-d909-11ef-a4c7-abcb5f669a26.html> [as of June 16, 2026].
[6] Governor Gavin Newsom, Executive Order N-17-25. Issued 4 February 2025. <https://www.gov.ca.gov/wp-content/uploads/2025/02/EO-N-17-25.pdf> [as of June 16, 2026].
[7] Lloyd, *Map: Where wildfires are burning in Southern California* (May 21, 2026) NBC News 4 Los Angeles <https://www.nbclosangeles.com/news/california-wildfires/map-california-fires-sandy-bain-verona-may-2026/3892712/> [as of June 22, 2026].

"These reforms are both practical and necessary. In times of crisis, displaced families should not be forced to compete in a predatory marketplace where legal protections are easily circumvented. Housing is a necessity for working families. SB 1365 will help restore fairness to the rental market, deter unlawful profiteering, and provide local officials with the tools needed to enforce the law effectively to ensure working families are able to maintain a roof over their heads at a fair price."

6) **Argument in Opposition**: According to the *California Association of Realtors*, "**SB 1365 Unnecessary Expands California's Antitrust law** – It would significantly expand antitrust enforcement authority by allowing city attorneys in some cities to bring claims under California's antitrust laws. While we support strong and effective enforcement of antitrust laws, this proposal creates substantial risks without demonstrating a clear need for change. It would fragment California's antitrust enforcement framework, increase litigation risk, and undermine the consistent application of complex laws—without addressing a demonstrated need.

"**SB 1365 undermines uniform statewide enforcement** - Antitrust law is highly complex and requires consistent application across jurisdictions. Current law appropriately vests enforcement authority with the Attorney General and local district attorneys, ensuring a coordinated and uniform approach. Expanding authority to city attorneys risks creating a patchwork of enforcement standards, with differing interpretations and inconsistent outcomes across cities.

"SB 1365 creates duplicative and potentially conflicting litigation - Allowing multiple layers of government to bring antitrust claims over the same conduct invites overlapping lawsuits. A single issue could be pursued simultaneously by the Attorney General, a district attorney, and one or more city attorneys. This duplication increases costs, burdens the courts, and raises the potential for conflicting rulings or settlements.

"**SB 1365 provides no demonstrated gap in current law** - The bill does not identify a failure in existing enforcement by the Attorney General or district attorneys. Without evidence of any deficiency, expanding authority adds complexity without clear benefit.

"SB 1365 dilutes expertise in a highly specialized area of law - Antitrust enforcement requires significant legal and economic expertise. The Attorney General's office is specifically equipped with the resources and experience necessary to handle these cases. Expanding authority to additional jurisdictions risks inconsistent application…

"**SB 1365 expands beyond the intent of existing law** - Penal Code Section 396 was designed to prevent sudden and opportunistic rent increases based on prices immediately following an emergency. SB 1365 instead applies these restrictions to all rental housing, including long-term leases that were negotiated well in advance of any emergency. This represents a fundamental shift from targeting bad actors to broadly regulating lawful pricing decisions.

"**SB 1365 interferes with freely negotiated contracts** - Longer-term leases often reflect carefully negotiated terms, including agreed-upon rent schedules and risk allocation over time. By applying emergency price caps without regard to lease duration, SB 1365

effectively rewrites these agreements after the fact. This undermines contractual certainty and raises serious concerns about fairness and predictability in California's housing market.

"**SB 1365 creates unnecessary overlap with existing laws** - California already has extensive renter protections, including statewide rent caps under AB 1482, local rent control ordinances, and existing emergency price gouging restrictions. Expanding Penal Code Section 396 adds another layer of regulation without addressing a clearly defined gap, increasing compliance complexity and the risk of inadvertent violations under a criminal statute."

7) **Related Legislation**:

a) SB 493 (Becker), would include "war," as defined, to the covered disasters in the price gouging statute. SB 493 is schedule for hearing today in this committee.

b) AB 1847 (Harabedian), would extend the period of mortgage forbearance to 36 months and extends the latest possible deadline for a borrower's request for forbearance to January 7, 2029 for borrowers requesting forbearance on their residential mortgage loan for a period of 12 months if, among other things, the borrower affirms that they are experiencing financial hardship that prevents them from making timely payments on the loan due directly to the wildfire disaster described in the specified state of emergency. AB 1847 is pending hearing in the Senate Banking and Financial Institutions Committee.

8) **Prior Legislation**:

a) SB 610 (Perez), Chapter 547, Statutes of 2025, specified there is no requirement for landlords to rebuild a residential real property or any portion thereof that has sustained damage as a result of a disaster, and that, unless lawfully terminated by either party, the tenancy remains in effect and the tenant has the right to return to the rental unit, at the same rental rate in effect immediately prior to the disaster.

b) SB 368 (Smallwood-Cuevas), of the 2025-26 Legislative Session, would have required the California Department of Justice and local district attorneys' to establish partnerships to enforce price gouging prohibitions. SB 368 was held in suspense in the Senate Appropriations Committee.

c) SB 36 (Umberg), of the 2025-26 Legislative Session, would have required a housing listing platform, during the period of 30 days following a proclamation of a state emergency or a declaration of a local emergency to, among other things, remove a listing when notified law enforcement that the price for a listing made available on the platform violates the price gouging provisions. SB 36 was vetoed by the Governor.

d) AB 380 (Mark Gonzalez), of the 2025-26 Legislative Session, would have expanded the definition of "housing" to include any rental housing without regard to the length of the initial lease term and would have made the prohibitions on increasing the rental price by more than 10% and eviction generally applicable to commercial real property. AB 380 was held in suspense in the Senate Appropriations Committee.

e) SB 1133 (Archuleta), of the 2021-22 Legislative Session, would have, among other things, excluded from those price gouging prohibitions newly constructed housing that was issued a certificate of occupancy for residential use within the 3 months preceding, or within the duration of, a proclamation of a state of emergency or declaration of local emergency. SB 1133 was held in suspense in the Assembly Appropriations Committee.

f) SB 1196 (Umberg), Chapter 339, Statutes of 2020, made it a crime for a person, contractor, business, or other entity who did not charge a price for the goods or services immediately prior to the proclamation or declaration of emergency to charge a price that is more than 50% greater than the seller's existing costs.

g) AB 1919 (Wood), Chapter 631, Statutes of 2018, upon an emergency proclamation or declaration, made it a misdemeanor for a person, business, or other entity to increase the rental price advertised, offered, or charged for housing to an existing or prospective tenant by more than 10%.

REGISTERED SUPPORT / OPPOSITION:

Support

California Federation of Labor Unions, Afl-cio
Consumer Watchdog
Los Angeles City Attorney's Office

Opposition

Apartment Association of Greater Los Angeles
Apartment Association of Orange County
Berkeley Property Owner's Association
California Apartment Association
California Association of Realtors
California Association of Realtors
California Business Properties Association
California Chamber of Commerce
California Rental Housing Association
California Taxpayers Association (CALTAX)
East Bay Rental Housing Association
Nor Cal Rental Property Association
North Valley Property Owners Association
North Valley Rental Property Association
Santa Barbara Rental Property Association
Small Property Owners of San Francisco Institute
Southern California Rental Housing Association
Western Manufactured Housing Communities Association

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

Date of Hearing: June 30, 2026
Deputy Chief Counsel: Stella Choe

ASSEMBLY COMMITTEE ON PUBLIC SAFETY
Nick Schultz, Chair

SB 1373 (Grove) – As Amended June 16, 2026

SUMMARY: Makes various changes to the mental health diversion program. Specifically, **this bill**:

1) Amends the suitability criteria that a court must consider when determining whether to grant diversion in existing law that requires a court to find that the defendant will not pose an unreasonable risk of danger to public safety, as defined, and instead requires that the defendant will not pose a substantial and undue risk to the physical safety of another person if treated in the community.

2) Clarifies that a defendant shall have been diagnosed or rediagnosed with a mental disorder within 5 years of the current offense in order for the presumption in existing law to apply that the defendant's diagnosed mental disorder was a significant factor in the commission of the offense.

3) Specifies that the court may additionally consider the defendant's prior history in a pretrial diversion plan, the degree of danger posed to the community as evidenced by defendant's prior violence, and the severity of injuries to victims when determining whether the defendant poses a public safety risk making the defendant unsuitable for diversion.

4) Specifies that the court shall consider the victim's rights under Marsy's Law.

5) Excludes a person charged with any of the following from being considered by the court for mental health diversion:

   a) Child abuse and endangerment, in violation of Penal Code Section 273a, if charged as a felony;

   b) Assault of a child under 8 years of age resulting in death of the child, in violation of Penal Code Section 273ab;

   c) Human trafficking, in violation of Section 236.1;

   d) Corporal injury, in violation of Section 273.5, that causes great bodily injury; and,

   e) Inflicting cruel or inhuman corporal punishment on a child resulting in an injury, in violation of Penal Code Section 273d, if charged as a felony.

6) States that if the court intends to summarily grant diversion or any other relief, the court shall, if requested by either party, conduct an additional hearing.

EXISTING LAW:

1) States that the purpose of mental health diversion is to promote the following:

    a) Increased diversion of individuals with mental disorders to mitigate the individuals' entry and reentry into the criminal justice system while protecting public safety;

    b) Allowing local discretion and flexibility for counties in the development and implementation of diversion for individuals with mental disorders across a continuum of care settings; and,

    c) Providing diversion that meets the unique mental health treatment and support needs of individuals with mental disorders. (Pen. Code, § 1001.35.)

2) Authorizes a court to, after considering the positions of the defense and prosecution, grant pretrial mental health diversion to defendant charged with a misdemeanor or a felony if the defendant meets the following eligibility and suitability requirements:

    a) The defendant suffers from a mental disorder as identified in the most recent edition of the Diagnostic and Statistical Manual of Mental Disorders, including, but not limited to, bipolar disorder, schizophrenia, schizoaffective disorder, or post-traumatic stress disorder, but excluding antisocial personality disorder, borderline personality disorder, and pedophilia, and the defense produces evidence of the defendant's mental disorder which must include a diagnosis by a qualified mental health expert within the last five years;

    b) The defendant's mental disorder was a significant factor in the commission of the charged offense, as provided;

    c) In the opinion of a qualified mental health expert, the defendant's symptoms of the mental disorder motivating the criminal behavior would respond to mental health treatment;

    d) The defendant consents to diversion and waives their right to a speedy trial, unless a defendant has been found to be an appropriate candidate for diversion in lieu of commitment due to their mental incompetence and cannot consent to diversion or give a knowing and intelligent waiver of their right to a speedy trial;

    e) The defendant agrees to comply with treatment as a condition of diversion; and,

    f) The defendant will not pose an unreasonable risk of danger to public safety, as defined, if treated in the community. In making this determination, the court may consider the opinions of the district attorney, the defense, or a qualified mental health expert, and may consider the defendant's treatment plan, violence and criminal history, the current charged offense, and any other factors that the court deems appropriate. (Pen. Code, § 1001.36, subds. (a)-(c).)

3) Contains a presumption that the defendant's mental disorder was a significant factor in the commission of the offense, which can be rebutted with clear and convincing evidence that it was not a motivating factor, causal factor, or contributing factor to the defendant's involvement in the alleged offense. (Pen. Code § 1001.36, subd. (b)(2).)

4) Excludes defendants from mental health diversion eligibility if they are charged with murder, voluntary manslaughter, an offense requiring sex-offender registration (except for indecent exposure), or offenses involving weapons of mass destruction. (Pen. Code, § 1001.36, subd. (d).)

5) States that at any stage of the proceedings, the court may require the defendant to make a prima facie showing that the defendant will meet the minimum requirements of eligibility for diversion and that the defendant and the offense are suitable for diversion. (Pen. Code, § 1001.36, subd. (e).)

6) Provides that the hearing on the prima facie showing shall be informal and may proceed on offers of proof, reliable hearsay, and argument of counsel. If a prima facie showing is not made, the court may summarily deny the request for diversion or grant any other relief as may be deemed appropriate. (*Ibid.*)

7) Defines "pretrial diversion" for purposes of mental health diversion as the postponement of prosecution, either temporarily or permanently, at any point in the judicial process from the point at which the accused is charged until adjudication, to allow the defendant to undergo mental health treatment, subject to the following conditions:

   a) The court is satisfied that the recommended inpatient or outpatient program of mental health treatment will meet the specialized mental health treatment needs of the defendant;

   b) The defendant may be referred to a program of mental health treatment utilizing existing inpatient or outpatient mental health resources. Before approving a proposed treatment program, the court shall consider the request of the defense, the request of the prosecution, the needs of the defendant, and the interests of the community. The treatment may be procured using private or public funds, and a referral may be made to a county mental health agency, existing collaborative courts, or assisted outpatient treatment only if that entity has agreed to accept responsibility for the treatment of the defendant, and mental health services are provided only to the extent that resources are available and the defendant is eligible for those services; and,

   c) The provider of the mental health treatment program in which the defendant has been placed shall provide regular reports to the court, the defense, and the prosecutor on the defendant's progress in treatment. (Pen. Code, § 1001.36, subd. (f).)

8) Requires the provider of the mental health treatment program in which the defendant has been placed to provide regular reports to the court, the defense, and the prosecutor on the defendant's progress in treatment. (Pen. Code, § 1001.36, subd. (f)(1)(B).)

9) States that an offense may be diverted no longer than two years if it is a felony, and one year if it is a misdemeanor. (Pen. Code, § 1001.36, subd. (f)(1)(C).)

10) States that if any of the following circumstances exist, the court shall, after proper notice, hold a hearing to determine whether the criminal proceedings should be reinstated, whether the treatment should be modified, or whether the defendant should be conserved and referred to the conservatorship investigator of the county of commitment to initiate conservatorship proceedings for the defendant:

    a) The defendant is charged with an additional misdemeanor allegedly committed during the pretrial diversion and that reflects the defendant's propensity for violence;

    b) The defendant is charged with an additional felony allegedly committed during the pretrial diversion;

    c) The defendant is engaged in criminal conduct rendering him or her unsuitable for diversion; or,

    d) A qualified mental health expert opines that:

        i) The defendant is performing unsatisfactorily in the assigned program; or

        ii) The defendant is gravely disabled, as defined. (Pen. Code, § 1001.36, subd. (g).)

11) Requires the court to dismiss the criminal charges if the defendant has performed satisfactorily in diversion. A court may conclude that the defendant has performed satisfactorily if the defendant has substantially complied with the requirements of diversion, has avoided significant new violations of law unrelated to the defendant's mental health condition, and has a plan in place for long-term mental health care. (Pen. Code, § 1001.36, subd. (h).)

12) Provides that any person who, under circumstances or conditions likely to produce great bodily harm or death, willfully causes or permits any child to suffer, or inflicts thereon unjustifiable physical pain or mental suffering, or having the care or custody of any child, willfully causes or permits the person or health of that child to be injured, or willfully causes or permits that child to be placed in a situation where his or her person or health is endangered, shall be punished by imprisonment in a county jail not exceeding one year, or in the state prison for two, four, or six years. (Pen. Code, § 273a, subd. (a).)

13) States that any person, having the care or custody of a child who is under eight years of age, who assaults the child by means of force that to a reasonable person would be likely to produce great bodily injury, resulting in the child's death, shall be punished by imprisonment in the state prison for 25 years to life. Nothing in this section shall be construed as affecting the applicability of murder. (Pen. Code, § 273ab, subd. (a).)

14) States that any person who deprives or violates the personal liberty of another with the intent to obtain forced labor or services or with the intent to effect or maintain a violation of specified sexual acts, is guilty of human trafficking. (Pen. Code, § 236.1.)

15) Provides that a person who willfully inflicts corporal injury resulting in a traumatic condition upon a victim described below is guilty of a felony, and upon conviction thereof shall be punished by imprisonment in the state prison for two, three, or four years, or in a county jail

for not more than one year, or by a fine of up to $6,000, or by both that fine and imprisonment:

a) The offender's spouse or former spouse;

b) The offender's cohabitant or former cohabitant;

c) The offender's fiance, or someone with whom the offender has, or previously had, an engagement or dating relationship, as defined; or,

d) The mother or father of the offender's child. (Pen. Code, § 273.5, subds. (a)-(b).)

16) Defines "traumatic condition" for purposes inflicting corporal injury as a condition of the body, such as a wound, or external or internal injury, including, but not limited to, injury as a result of strangulation or suffocation, whether of a minor or serious nature, caused by a physical force. For purposes of this section, "strangulation" and "suffocation" include impeding the normal breathing or circulation of the blood of a person by applying pressure on the throat or neck. (Pen. Code, § 273.5, subd. (d).)

17) States that any person who willfully inflicts upon a child any cruel or inhuman corporal punishment or an injury resulting in a traumatic condition is guilty of a felony and shall be imprisoned in county jail for two, four, or six years, or in a county jail for not more than one year, by a fine of up to $6,000, or by both that imprisonment and fine. (Pen. Code, § 273d, subd. (a).)

FISCAL EFFECT: Unknown.

COMMENTS:

1) **Sponsor**: Author-sponsored

2) **Author's Statement**: According to the author, "California's Mental Health Diversion law was created with good intentions, to help individuals truly suffering from mental illness who do not pose a risk to public safety. Unfortunately, it has taken a dangerous turn. We are seeing violent offenders, including those accused of horrific crimes against children, exploit this law as a means to avoid accountability. Any mental health condition on the DSM5 is now eligible for diversion, even in cases involving child abuse resulting in death. Suspects can be diagnosed after their arrest, even by individuals who are not medical doctors, such as licensed marriage and family therapists."

3) **Incarceration of Offenders with Mental Disorders**: Studies show that people with mental disorders are overrepresented in jails and prisons.[1] According to a 2019 study, more than 30% of the state's prison and 23 % of the jail populations have a mental illness.[2] Not only have the numbers of inmates with mental illness increased, the severity of psychiatric

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[1] Seth J. Prins, *The Prevalence of Mental Illnesses in U.S. State Prisons: A Systemic Review* (Jul. 2015).
[2] Stanford Justice Advocacy Project, *Confronting California's Continuing Prison Crisis: The Prevalence And Severity Of Mental Illness Among California Prisoners On The Rise* https://law.stanford.edu/wp-content/uploads/2017/05/Stanford-Report-FINAL.pdf [accessed Feb. 26, 2025].)

symptoms among inmates is also on the rise.[3] This population tends to serve longer sentences than the general population[4] and have a higher recidivism rate. Promoting treatment over incarceration has shown positive results in reducing recidivism:

"To avoid incarceration, individuals with serious mental illness need to be diverted from the legal system and offered rehabilitative resources. The homeless comprise a significant share of individuals who come to the attention of law enforcement. A recent review revealed that lifetime arrest rates of homeless individuals with serious mental illness ranged from 62.9% to 90.0%, compared with approximately 15.0% in the general population. For this population, stable housing is a major issue. A recent randomized trial comparing housing first with assertive community treatment with treatment as usual demonstrated significantly decreased rates of arrest among those receiving assertive community treatment at 2 years. These results suggest that efforts to provide stable, affordable, and safe shelter for homeless individuals may lead to lower rates of involvement in the justice system...

"When individuals with serious mental illness are brought to court attention, several models have demonstrated positive outcomes, including mental health courts, drug courts, and Veterans Treatment Courts. Although they serve different populations, the common goal of all these court formats is to address the causes of behavior that brought an offender to police attention. Mental health courts are becoming more common in different communities, each with slight variations; however, common features include a specialized court docket that emphasizes problem solving, community-based treatment plans that are designed and supervised by judicial and clinical staff, regular follow-up with incentives and sanctions related to treatment adherence, and clearly defined "graduation" criteria. A recent prospective study of 169 individuals showed that the likelihood of perpetrating violence during the following year was significantly lower among participants processed through a mental health court than among individuals in a matched comparison group who were processed through traditional courts (odds ratio, 0.39; 95% CI, 0.16-0.95; P = .04)."[5]

4) **Mental Health Diversion**: Diversion is the suspension of criminal proceedings for a prescribed time period with certain conditions. A defendant may not be required to admit guilt as a prerequisite for placement in a pretrial diversion program. If diversion is successfully completed, the criminal charges are dismissed and the defendant may, with certain exceptions, legally answer that he or she has never been arrested or charged for the diverted offense. If diversion is not successfully completed, the criminal proceedings resume, however, a hearing to terminate diversion is required.

In 2018, the Legislature enacted a law authorizing pretrial diversion of eligible defendants with mental disorders. Under the mental health diversion law, in order to be eligible for diversion, 1) the defendant must suffer from a mental disorder, except those specifically excluded, 2) that played a significant factor in the commission of the charged offense; 3) in the opinion of a qualified mental health expert, the defendant's symptoms of the mental disorder causing, contributing to, or motivating the criminal behavior would respond to mental health treatment; 4) the defendant must consent to diversion and waive the right to a

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[3] *Id.* at p. 2.
[4] *Id.* at p. 1.
[5] Hirschtritt & Binder, *Interrupting the Mental Illness–Incarceration-Recidivism Cycle* (Feb. 21, 2017) 317 JAMA 695-696, fn. omitted.

speedy trial; 5) the defendant must agree to comply with treatment as a condition of diversion; and 6) the court is satisfied that the defendant will not pose an unreasonable risk of danger to public safety, as defined, if treated in the community. (Pen. Code, § 1001.36, subds. (b)-(c).) The law also states that a defendant is not eligible if they are charged with specified crimes, including murder, voluntary manslaughter, specified sex crimes and any crime requiring sex offender registration. (Pen. Code, § 1001.36, subd. (d).)

In 2022, the Legislature amended the mental health diversion law to, among other things, restate that granting diversion is in the trial court's discretion in subdivision (a) (the original law provided the court's discretion in subdivision (h)) and to require the court to find that the defendant's mental disorder was a significant factor in the commission of the offense unless there is clear and convincing evidence that it was not.[6] The cited reason for this change was a recommendation from the Committee on the Revision of the Penal Code.[7] One of the Committee's recommendations, after staff's exhaustive research and receiving public testimony from expert witnesses including crime victims, law enforcement leaders, judges, and criminal defense experts and advocates, was to strengthen the mental health diversion law by increasing its use in appropriate cases, which includes consideration of risk to public safety. Specifically, the Committee recommended that the law be changed to simplify the procedural process for obtaining diversion by presuming that a defendant's diagnosed "mental disorder" has a connection to their offense. A judge could deny diversion if that presumption was rebutted or for other reasons currently permitted under the law, including finding that the individual would pose an unreasonable risk to public safety if placed in a diversion program.[8]

In addition to the requirements discussed above, the mental health treatment program must meet the following requirements: 1) the court is satisfied that the recommended inpatient or outpatient program of mental health treatment will meet the specialized mental health treatment needs of the defendant; 2) the defendant may be referred to a program of mental health treatment utilizing existing inpatient or outpatient mental health resources; 3) and the program must submit regular reports to the court and counsel regarding the defendant's progress in treatment. (Pen. Code, § 1001.36, subd. (f).) The court has the discretion to select the specific program of diversion for the defendant. The county is not required to create a mental health program for the purposes of diversion, and even if a county has existing mental health programs suitable for diversion, the particular program selected by the court must agree to receive the defendant for treatment. (Pen. Code, § 1001.36, subd. (f)(1)(A).)

The diversion program cannot last more than two years for a felony and cannot last for more than one year for a misdemeanor. (Pen. Code, § 1001.36, subd. (f)(1)(C).) If there is a request for victim restitution, the court shall conduct a hearing to determine whether restitution is owed to any victim as a result of the diverted offense and, if owed, order its payment during the period of restitution. (Pen. Code, § 1001.36, subd. (f)(1)(D).)

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[6] SB 1223 (Becker), Ch. 735, Stats. 2022.
[7] The Committee on the Revision of the Penal Code was established within the Law Review Commission through SB 94, Ch. 25, Stats. 2019 to study the Penal Code and recommend statutory reforms.
[8] *Annual Report and Recommendations 2021*, Committee on Revision of the Penal Code, http://www.clrc.ca.gov/CRPC/Pub/Reports/CRPC_AR2021.pdf, p. 17.

The stated purpose of the diversion program is "to promote all of the following: . . . increased diversion of individuals with mental disorders to mitigate individuals' entry and reentry into the criminal justice system *while protecting public safety*; allowing local discretion and flexibility for counties in the development and implementation of diversion for individuals with mental disorders across a continuum of care settings; and providing diversion that meets the unique mental health treatment and support needs of individuals with mental disorders." (Pen. Code, § 1001.35, emphasis added.) The law states that courts have discretion to grant diversion if the minimum standards are met, and, correspondingly, refuse to grant diversion even though the defendant meets all of the requirements[9]:

> There may be times because of the defendant's circumstances, where the interests of justice do not support diversion of the case. The defendant's criminal or mental health history may reflect an unsuitability of the crime or the defendant for diversion. It may be that because of the defendant's level of disability there is no reasonably available and suitable treatment program for the defendant. The defendant's treatment history may indicate the prospect of successfully completing a program is quite poor. Conduct in prior diversion programs may indicate the defendant is now unsuitable. (See § 1001.36, subd. (k) [the court may consider past performance on diversion in determining suitability].) The court may consider whether the defendant and the community will be better served by the regimen of mental health court. (See §1001.36, subd. (f)(1)(A)(ii)) [the court may consider interests of the community in selecting a program].) The court is not limited to excluding persons only because of the risk of committing a "super strike." (*Qualkinbush*, *supra*, 79 Cal.App.5th at pp. 888-889.) In exercising its discretion to grant or deny mental health diversion under subdivision (a), the court may consider any factor relevant to whether the defendant is suitable for diversion. (See *Qualkinbush*, *supra*, 79 Cal.App.5th at pp. 889-890.)

(J. Couzens, *Memorandum RE: Mental Health Diversion* (Penal Code §§ 1001.35-1001.36) (AB 1810 & SB 215) [revised] (May 2024), p. 4, fn. omitted.) While the court retains discretion to deny or grant diversion even where the defendant meets the threshold requirements for diversion (Pen. Code, § 1001.36, subd. (a)), this discretion must be exercised "consistent with the principles and purpose of the governing law." (*Sarmiento v. Superior Court* (2024) 98 Cal.App.5th 882, 892.)

In *Sarmiento*, the defendant requested mental health diversion after she was charged with attempted robbery. (*Id.* at p. 886.) Although the trial court found defendant met many of the requirements for diversion, it denied her request, finding that her inability to remain drug free after prior treatment indicated she would not respond well to mental health treatment. (*Id.* at pp. 887, 890.) However, the undisputed evidence indicated the defendant never received any coordinated treatment for her two primary mental health diagnoses (PTSD and major depressive disorder from childhood sexual abuse), and the doctor's report submitted in support of her request for diversion made clear that defendant was unable to remain sober

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[9] J. Couzens, *Memorandum RE: Mental Health Diversion Under Penal Code Sections 1001.35-1001.36* [revised] (May 2024), p. 14.

because her underlying mental health conditions were never addressed. The prosecutor presented no evidence to the contrary. (*Id.* at pp. 887-889.) Thus, there was insufficient evidence to conclude defendant's symptoms would not respond to treatment. The evidence was also insufficient to support the trial court's finding that the defendant's recommended treatment plan would not meet her "specialized mental health treatment needs" (§ 1001.36, subd. (f)(1)(A)(i)) because she had a history of receiving prior substance abuse treatment and then reoffending. The appellate court found that this does not rationally support a conclusion that mental health treatment coupled with substance abuse treatment would not be sufficient, and the alleged failure of prior drug treatment plans says nothing about the adequacy of the current proposed treatment plan. (*Id.* at p. 893-895.)

The trial court in *Sarmiento* also relied on its discretion to find that the defendant posed an "unreasonable risk to public safety," although it recognized that the term was expressly defined in the statute to mean a likelihood that if the defendant is granted diversion, she will commit one of the enumerated "super strike" violent felonies. (*Id.* at p. 895.) The court did not make a finding of such a likelihood and instead relied purely on its discretion without any further analysis. (*Ibid.*) In defining the parameters of the court's discretion, the court held:

> [W]hile it is clear a trial court retains "residual" discretion to deny diversion even if all the threshold requirements are met, that does not mean, as the court suggested here, that it could reject a request for diversion based on an alternative meaning of "public safety" inconsistent with the specific statutory definition in section 1001.36, subdivision (c)(4). In the guise of exercising its "residual" discretion, a court is not permitted to redefine public safety in a manner inconsistent with the Legislature's expressed intent.

(*Id.* at p. 896.) Thus, when exercising its discretion to deny diversion, the court's conclusion that a defendant is not suitable for diversion must be supported by substantial evidence based on the individual facts of the case. If the facts do not support such a conclusion, the court's denial may be overturned under an abuse of discretion standard which is a deferential standard: "A court abuses its discretion when it makes an arbitrary or capricious decision by applying the wrong legal standard, or bases its decision on express or implied factual findings that are not supported by substantial evidence." (*Id.* at pp. 901-901, citing *People v. Moine* (2021) 62 Cal.App.5th 440, 449.)

This bill revises the public safety standard for determining suitability of a defendant for mental health diversion. As discussed in *Sarmiento*, as well as other recent cases overturning a lower court's decision to deny mental health diversion based on public safety concerns[10], while the court retains residual discretion to deny diversion for a person who meets the eligibility and suitability threshold, the court's discretion to deny diversion based on a danger to public safety is limited to whether there is a likelihood that if the defendant is granted diversion, they will commit one of the enumerated "super strike" violent felonies. This bill would instead require the court to consider whether the defendant will pose a substantial and undue risk to the physical safety of another person if treated in the community. This revised standard is intended to provide courts with more discretion to deny diversion where there is

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[10] See also *People v. Tourville* (2026) 120 Cal.App.5th 539.

substantial evidence that the defendant poses an undue risk to the physical safety of another person.

Existing law states that the court may consider specified information including the opinions of the district attorney, defense, or qualified mental health expert, the defendant's treatment plan, the defendant's violence and criminal history, the current charged offense, and *any factors that the court deems appropriate* in making this determination. (Pen. Code, §1001.36, subd. (c)(4), emphasis added.) This bill adds new specified factors for the court to consider in making this determination including the defendant's prior history in a pretrial diversion plan, the degree of danger posed to the community as evidenced by the defendant's prior violence, and the severity of injuries to the victims. Because existing law already expressly permits the court to consider any factors that the court deems appropriate, it is unclear whether specifying additional factors will make a difference in the court's determination especially where courts would have considered those factors on its own.

5) **Competency in Criminal Proceedings and Growing Incompetent to Stand Trial (IST) Population**: 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.) In order to be competent to stand trial, "a defendant must have sufficient present ability to consult with his or her lawyer with a reasonable degree of rational understanding and a rational as well as factual understanding of the proceedings against him or her." (*People v. Oglesby* (2008) 158 Cal.App.4th 818, 827 citing *People v. Ramos* (2004) 34 Cal.4th 494, 507.) 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).)

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.

California, similar to the rest of the nation, has seen a significant increase over the last decade in the number of individuals with serious mental illness who become justice-involved and deemed IST on felony charges. A 2017 study conducted by the National Association of State Mental Health Program Directors Research Institute found that from 1999 to 2014, the overall number of forensic patients in state hospitals increased by 74% while the number of IST patients increased by 72% during that same period.[11] Due to increasingly long waiting period to be admitted to the Department of State Hospitals (DSH) for treatment, in 2015, the American Civil Liberties Union sued DSH. (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 being set on February 27, 2024 to meet the 28 day standard.

However, 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.[12]

In 2021, the Legislature charged the California Health & Human Services Agency and the DSH to convene an IST Solutions Workgroup to identify actionable solutions that address this increasing population.[13] The IST Workgroup released a report in November 2021 that outlined system improvements and one of the changes discussed was mental health diversion[14]:

> By FY 2017-18, DSH recognized that the demand for IST treatment services was not going to be met by capacity created within the State Hospital system. At this time the department began working to establish treatment pathways in the community with the long-term goal of decreasing demand for State Hospital services by connecting more people with Serious Mental Illness into ongoing community care. The Budget Act of 2018

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[11] Wik, A., Hollen, V., Fisher, W.H. (2017) Forensic Patients in State Psychiatric Hospitals: 1999-2016.
[12] See 24-25 Governor's Budget Estimate: Department of State Hospitals (Jan. 10, 2025), p. 2.
[13] AB 133 (Committee on Budget), Chapter 143, Statutes of 2021.
[14] *IST Solutions Workgroup Report of Recommended Solutions*, A report of recommended solutions presented to the California Health and Human Services Agency and the California Department of Finance in Accordance with Section 4147 of the Welfare and Institutions Code (Nov. 2021) pp. 17-18.

included funding for two major new programs to help DSH realize this vision.

The Budget Act of 2018 allocated $13.1million for DSH to contract with the Los Angeles County Office of Diversion and Reentry (ODR) for the first community-based restoration (CBR) program in the state. In this program, ODR subcontracts for housing and treatment services for IST patients in the community. Most IST patients in this program live in unlocked residential settings with wraparound treatment services provided on site. The original CBR program provided funding for 150 beds; investments in the LA program since 2018 has increased the program size to 515 beds. In addition, DSH has received funding to implement additional CBR programs across the state. The Budget Act of 2021 included ongoing funding to add an additional 252 CBR beds in counties outside of Los Angeles, bringing the total number of funded CBR beds to 767.

The Budget Act of 2018 also allocated DSH $100 million (one-time) to establish the DSH Felony Mental Health Diversion (Diversion) pilot program. Of this funding, $99.5 million was earmarked to send directly to counties that chose to contract with DSH to establish a pilot Diversion program (the remaining $500,000 was for program administration and data collection support at DSH). Assembly Bill 1810 (2018) established the legal (Penal Code (PC) 1001.35-1001.36) and programmatic (Welfare & Institutions Code (WIC) 4361) infrastructure to authorize general mental health diversion and the DSH-funded Diversion program. The original Diversion pilot program includes 24 counties who have committed to serving up to 820 individuals over the course of their three-year pilot programs.

The report noted that IST restoration of competency is not an adequate long-term treatment plan. The Workgroup looked at the 3-year post discharge recidivism rates using the Department of Justice's criminal offender record information data and found that recidivism rates are still high – about 70% rearrest post discharge – which shows that whatever circumstances led to an individual's prior arrest have likely not changed and most IST patients are stuck looping through the criminal justice system and DSH.[15] The solutions identified by the report included expanding community-based treatment and diversion options for felony ISTs that will help end the cycle of criminalization by connecting patients to comprehensive behavioral health treatment.[16]

This bill would give courts broader authority to deny diversion by revising the public safety standard for determining suitability for diversion in existing law. Additionally, this bill would prohibit a court from considering a person charged with child abuse and endangerment, if charged as a felony, assault of a child under 8 years of age resulting in the death of the child, human trafficking, corporal injury that causes great bodily injury, and inflicting cruel or inhuman corporal punishment on a child resulting in an injury, if charged as a felony, for

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[15] *Id.* at p. 11.
[16] *Id.* at p. 28.

mental health diversion eligibility. As discussed above, mental health diversion is an alternative to IST finding and treatment. Removing diversion as an option when charged with additional specified offenses will likely result in more people proceeding with the IST process with and attempted restoration of competency. This will place more burdens on an already overburdened system that are currently under a court order to provide services within a shortened time frame in order to meet constitutional standards and has already been shown to not be a long-term solution for the individual or the community in addressing public safety.

6) **Effect of this Legislation:** This bill makes several changes to the mental health diversion statute. First, it revises the public safety standard for determining a defendant's suitability for diversion. Instead of requiring a finding that the person would pose an unreasonable risk to public safety, which is defined in existing law to mean a likelihood that if the defendant is granted diversion, they will commit one of the enumerated "super strike" violent felonies, this bill requires a court to find that the person does not pose a substantial and undue risk to the physical safety of another person if treated in the community. The bill also specifies additional factors for the court to consider when making the determination that the person poses a public safety risk including degree of danger posed on the community based on the defendant's prior violence and the severity of injuries to the victim.

   The bill also expands the list of excluded charges and requires an additional hearing to be held if the court intends to summarily grant diversion or any other relief, and if requested by either party.

   This bill contains much of the same language that is contained in AB 46 (Nguyen), which was introduced in 2025 and has moved through both houses of the Legislature and is now at the Governor's desk pending signature. A notable difference is that this bill contains new charges that would make a defendant ineligible for diversion. Along the way, AB 46 was amended multiple times after committee and stakeholder input, and it now includes the revision to the public safety standard and reinforcing the rights of victims under the California Constitution, which have both been adopted by this bill. AB 46, in its original form, would have excluded a person charged with attempted murder from eligibility for diversion.

   As discussed above, the determination of whether to grant diversion requires both a consideration of whether the defendant is eligible, which includes whether the person has a qualifying diagnosed mental disorder that was a significant factor in the commission of the crime, and also includes whether the defendant is charged with specified crimes that makes them statutorily ineligible. If the defendant is eligible, the court shall then look at the defendant's suitability for diversion. This suitability determination includes, among other things, a determination that they would not pose an unreasonable risk to public safety, as defined. The court must also be satisfied that the recommended mental health treatment program, either inpatient or outpatient, will meet the specialized mental health treatment needs of the defendant and require the treatment program to submit regular reports to the court, the defense, and the prosecutor on the defendant's progress in treatment. If it appears the defendant is performing unsatisfactorily in the treatment program or the defendant is arrested or charged for new offenses, the court may reinstate criminal proceedings. While the statute expressly provides courts with discretion to grant diversion, case law and anecdotal

evidence from various judges indicated that that the statutory limitations on this discretion may need to be revisited by the Legislature.

AB 46 was amended in this committee to remove the provision making a person charged with attempted murder ineligible for diversion and instead focus on providing more discretion to courts to deny a defendant based on public safety concerns. Another bill, AB 433 (Krell) from 2025, would have made several additional charges ineligible for diversion, many of which are also excluded by this bill. AB 433 failed passage in this committee.

7) **Arguments in Support**:

a) According to the *Tulare County District Attorney's Office*, "Mental Health Diversion was intended to provide treatment for individuals whose diagnosed mental disorders meaningfully contributed to lower-level criminal conduct. However, statutory expansions have widely broadened eligibility. The program now permits individuals charged with serious and violent crimes, including attempted murder and other egregious offenses, to seek diversion, even when significant public safety concerns remain.

"SB 1373 closes these gaps by clarifying that the most serious and violent offenses are not eligible for diversion and by ensuring repeat offenders are not permitted to cycle through the program. The bill restores meaningful judicial discretion to deny diversion where public safety is at risk and provides prosecutors with appropriate procedural tools to fully and fairly evaluate eligibility claims.

"SB 13 73 reaffirms that diversion should not function as a substitute for accountability in serious cases. It strengthens statutory guardrails, prioritizes community safety, and refocuses resources on those for whom diversion was originally intended."

b) According to *Peace Officers' Research Association of California*, "SB 1373 strengthens California's mental health diversion framework by establishing clearer eligibility standards and adding important safeguards. The bill narrows eligibility by excluding individuals charged with specified serious offenses and those with certain prior convictions, and ensures that qualifying mental health diagnoses are recent and relevant to the current offense. The bill also provides courts with clearer guidance in determining whether a defendant is suitable for diversion, including consideration of public safety risks and the circumstances of the offense.

"These changes help preserve access to diversion for individuals who can benefit from treatment, while reinforcing accountability and ensuring that the program is applied in a manner that protects public safety."

8) **Arguments in Opposition**:

a) According to *Smart Justice California*, "Both Public Safety Committees have already made significant modifications to California's mental health diversion statute by each passing AB 46 (Nguyen). The current version of AB 46 is the result of extensive negotiations between Smart Justice California, the Chairs of both the Senate and Assembly Public Safety Committees, the Sacramento District Attorney, mental health

experts, other criminal legal system stakeholders, and the bill's author, Assemblymember Stephanie Nguyen. AB 46 makes critical changes to address public safety concerns related to California's mental health diversion statute by: 1) Changing the public safety standard to allow for broader denial of mental health diversion; 2) Clarifying that diversion is discretionary in all cases, consistent with the eligibility and suitability provisions of the statute; 3) Narrowing the eligibility criteria to require that the defendant be diagnosed with a mental disorder within 5 years of the current offense; and 4) Requiring the court to consider the victim's rights under Article 1, Section 28 (b) of the California Constitution. Given the care with which the bill has been negotiated, we caution against further changes to the mental health diversion statute proposed by SB 1373."

b) According to *County Behavioral Health Directors Association (CBHDA)*, "This bill would narrow eligibility criteria for mental health diversion by providing statutorily undefined criteria for defendants being treated in the community, leading to further undue incarceration of individuals who are better off receiving treatment for their conditions rather than placement in carceral settings.

"For individuals living with serious mental illness (SMI), being inadvertently charged with a crime due to a mental illness can lead to detrimental lasting effects on their livelihoods. California currently allows for pretrial diversion, which is a method of compassionately administering justice for those living with SMI by way of court intervention to identify critical behavioral health treatment prior to completion of prosecution. Not only does this prevent unwarranted incarcerations of those in need of mental health treatment, but it also allows for early identification of potential patients for the state's behavioral health system.

. . . .

"County behavioral health professionals are dedicated and have a keen understanding of SMI and serious emotional disturbance (SED) symptomology and treatment modalities to effectively treat defendants and others living with these diagnoses – the policy changes proposed by this bill would limit the numbers of individuals with mental health conditions related to their charges who can be safely treated in community through diversion. CBHDA is concerned that this would lead to greater criminalization of individuals with mental health conditions, which would compromise public safety. For individuals whose charges are related to actions taken while experiencing behavioral health symptoms, diversion has been a proven intervention to ensure that underlying mental health needs are met while allowing the individual charged with an opportunity to enter recovery and truly reenter society, rather than remain incarcerated for long periods without the possibility of rehabilitation."

9) **Related Legislation**:

a) AB 46 (Nguyen) would make various changes to mental health diversion program including modifying the public safety consideration in determining suitability of a particular defendant for diversion. AB 46 is pending approval by the Governor.

b) AB 2275 (Bains) would have made various changes to the mental health diversion program including excluding additional crimes from eligibility. AB 2275 was never heard in this committee.

10) **Prior Legislation**:

a) AB 433 (Krell), would have excluded additional crimes from eligibility for mental health diversion including the crimes excluded by this bill. AB 433 failed passage in this committee.

b) SB 483 (Stern), would add another suitability factor for granting mental health diversion, requiring the court be satisfied that the recommended mental health treatment program is consistent with the purpose of diversion and will meet the defendant's specialized treatment need. SB 483 was held on suspense in Assembly Appropriations Committee.

c) AB 1412 (Hart), Chapter 687, Statutes of 2023, removed borderline personality disorder as an exclusion for mental health diversion.

d) AB 1323 (Menjivar), Chapter 646, Statutes of 2024, required a court to determine whether the restoration of the defendant's mental competence is in the interests of justice, and if it finds that it is not in the interests of justice, to hold a hearing to consider granting mental health diversion or other programs to the defendant.

e) AB 455 (Quirk-Silva), Chapter 236, Statutes of 2023, authorized the prosecution to request an order from the court to prohibit a defendant subject to pretrial diversion from owning or possessing a firearm because they are a danger to themselves or others until they successfully complete diversion or their firearm rights are restored.

f) SB 1223 (Becker), Chapter 735, Statutes of 2022, added a presumption for purposes of mental health diversion eligibility that the defendant's mental disorder was a significant factor in the commission of the offense which could be overcome by clear and convincing evidence that it was not a motivating factor, causal factor, or contributing factor to the defendant's involvement in the alleged offense.

g) SB 666 (Stone), of the 2019-2020 Legislative Session, would have added offenses which would preclude an individual from being eligible for mental health diversion. SB 666 was held in the Senate Public Safety Committee.

h) SB 215 (Beall), Chapter 1005, Statutes of 2018, specified ineligible offenses for mental health diversion and required the court to determine whether restitution is owed to any victim of the diverted offense.

i) AB 1810 (Committee on Budget), Chapter 34, Statutes of 2018, created mental health diversion in statute and specified that when a defendant is determined to be IST, the court can find that they are an appropriate candidate for mental health diversion.

REGISTERED SUPPORT / OPPOSITION:

Support

Arcadia Police Officers' Association
Association for Los Angeles Deputy Sheriffs
Brea Police Association
Burbank Police Officers' Association
California Association of School Police Chiefs
California Coalition of School Safety Professionals
California District Attorneys Association
California Massage Therapy Council
California Narcotic Officers' Association
California Police Chiefs Association
California Reserve Peace Officers Association
California State Sheriffs' Association
Central Valley Justice Coalition
Chief Probation Officers' of California (CPOC)
Chino Police Department
City of Chino
City of Exeter
City of Mcfarland
Claremont Police Officers Association
Community Action Partnership of Kern
Corona Police Officers Association
County of Tulare
Crime Victims United
Culver City Police Officers' Association
Empowerment (dess Perkins Foundation)
Farmersville Police Department
Fresno County District Attorneys Office
Fresno Police and Fire Chaplaincy
Fresno Police Department
Fullerton Police Officers' Association
Kern Coalition Against Human Trafficking
Kern County Sheriff's Office
Kern County Supervisor Chris Parlier
Los Angeles County District Attorney's Office
Los Angeles School Police Management Association
Los Angeles School Police Officers Association
Monterey County District Attorney's Office - ODA - Salinas, CA
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 Sheriff Jim Cooper
San Diego County District Attorney's Office
San Luis Obispo County District Attorney
The California Baptist Capitol Ministry
The Open Door Network
Tulare County District Attorney's Offiice
Tulare; City of
Woodlake Police Department

Oppose

A New Way of Life Re-entry Project
ACLU California Action
All of US or None (HQ)
California Association of Alcohol and Drug Program Executives
California Attorneys for Criminal Justice
California Coalition for Women Prisoners
California Public Defenders Association
Californians for Safety and Justice (CSJ)
Californians United for a Responsible Budget
Coalition for Humane Immigrant Rights (CHIRLA)
County Behavioral Health Directors Association, (CBHDA)
Courage California
Disability Rights California
Drug Policy Alliance
Drug Policy Alliance 1
Ella Baker Center for Human Rights
Fair Chance Project
Felony Murder Elimination Project
Friends Committee on Legislation of California
Initiate Justice
Judge Peter Espinoza
Justice2jobs Coalition
LA Defensa
Legal Services for Prisoners With Children
Local 148 Los Angeles County Public Defender's Union
Los Angeles County Public Defender's Office
Rubicon Programs
San Francisco Public Defender
Sister Warriors Freedom Coalition
Smart Justice California, a Project of Beyond Impact
Vera Institute of Justice
Youth Alliance

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

Date of Hearing: June 30, 2026
Counsel: Ilan Zur

ASSEMBLY COMMITTEE ON PUBLIC SAFETY
Nick Schultz, Chair

SB 1379 (Cervantes) – As Amended June 23, 2026

SUMMARY: Requires the Board of Supervisors (BOS) for the County of Riverside to separate the offices of sheriff and coroner, as specified. Specifically, **this bill**:

1) Requires, notwithstanding any other law, that the Riverside BOS separate the offices of sheriff and coroner by July 1, 2027.

2) Requires the BOS, for medicolegal death investigation services, to move the services to the coroner's office and require the use of an independent medical examiner model for the services.

3) Prohibits a person other than the coroner or a medical examiner from signing a death certificate or any portion of a postmortem examination.

4) Requires Riverside County to publish the following information on its internet website:

   a) An initial incident report of an in-custody death within 24 hours of the death.

   b) A preliminary report of an in-custody death within 72 hours of the death.

   c) In-custody death data in a centralized public database that includes the number of deaths by facility, the cause of death for each death, demographic data of the deceased, and medical response times to the incident resulting in the death.

   d) Notice of each in-custody serious incident, including, but not limited to, a suicide attempt, drug overdose, including any Narcan reversal, a person suffering severe withdrawal symptoms, a person suffering medical distress during restraint, and any time a person's medical request is ignored and that person is subsequently taken to the hospital.

   e) Any Department of Justice (DOJ) in-custody death reporting form submitted to the DOJ for an in-custody death.

5) Requires Riverside County to notify the next of kin of the cause of death of an in-custody death within 72 hours of the determination of the cause of death.

6) States that, notwithstanding any other law, both of the following apply to an employee represented by a recognized employee organization, as defined, on the date this bill is enacted who is transferred, reassigned, reclassified, retitled, or moved to a different office or agency as a result of this bill:

a) They shall remain within the same recognized bargaining unit.

b) They shall continue to be represented by the employee organization that served as the employee's exclusive representative immediately prior to the transfer.

7) States that an employee transferred pursuant to this bill shall retain all rights, benefits, retirement status, seniority, compensation, and representation status applicable immediately prior to the transfer.

8) States that an affected employee who holds peace officer status as a corner or deputy corner, as specified, shall retain, or be placed in, a classification qualifying for such peace officer status until the expiration of the memorandum of understanding that is in effect on the date this bill is enacted.

9) States that the transfer of functions, duties, classifications, positions, or employees pursuant to this bill shall not constitute grounds for any of the following:

a) The creation of a new bargaining unit.

b) The modification of an existing bargaining unit.

c) The removal of an employee from a bargaining unit represented by the affected employee organization.

10) States that the implementation of this section shall not diminish, impair, alter, or affect the rights of a recognized employee organization or any memorandum of understanding in effect on the date this bill is enacted.

11) Defines "in-custody death" as the death of a person who is detained, under arrest, or is in the process of being arrested by the county sheriff's office, is en route to be incarcerated by the county sheriff's office, is incarcerated at a county jail, or is at a medical facility while in custody of the county sheriff's office.

12) Makes this bill a special statute, and states that a special statute is necessary "because of the significantly higher rates of deaths in County of Riverside jails compared to the rest of the state."

EXISTING LAW:

1) States that officers of a county include a sheriff and coroner, among others. (Gov. Code, § 24000 subds. (b) & (m).)

2) Authorizes a BOS to abolish the office of coroner and provide instead for the office of medical examiner, to be appointed by the BOS and to exercise the powers and perform the duties of the coroner. The medical examiner shall be a licensed physician and surgeon duly qualified as a specialist in pathology. (Gov. Code, § 24010)

3) Authorizes a BOS to consolidate by ordinance the duties of certain county offices into one or more combinations, including the sheriff and the coroner. (Gov. Code, § 24300, subd. (n).)

4) Requires coroners to determine the manner, circumstances, and cause of death in specified circumstances, including violent, sudden or unusual deaths, unattended deaths, deaths known or suspected as due to homicide or suicide, deaths suspected as a result of an accident or injury, deaths in whole or in part occasioned by criminal means, deaths in prison or while under sentence, and deaths where a reasonable ground exists to suspect the death was caused by the criminal act of another, among others. (Gov. Code, § 27491, subd. (a).)

5) Authorizes a coroner, in any case where a coroner is required to inquire into a death, to delegate their jurisdiction to an agency of another county or the federal government if the other agency has requested the delegation, or has agreed to take jurisdiction, the other agency has the authority to perform the functions being delegated, and when the coroner and other agency have a jurisdictional interest or involvement in the death. (Gov. Code, § 27491.55.)

6) Requires a forensic autopsy to be conducted by a licensed physician and surgeon and the results of such an autopsy to be determined by said person. (Pen. Code, § 27522, subd. (a).)

7) States that the manner of death shall be determined by the coroner or medical examiner of a county and that if forensic autopsy is conducted by a licensed physician and surgeon, the coroner shall consult with the physician in determining the manner of death. (Gov. Code, § 27522, subd. (d)(1).)

8) Specifies that commencing January 1, 2027, the above provision does not apply to an independent medical examination conducted by a third-party medical examination provider, as specified. (Gov. Code, § 27522, subd. (d)(2).)

9) States that only persons directly involved in the investigation of the death of the decedent shall be allowed into the autopsy suite. (Gov. Code, § 27522, subd. (f)(1).)

10) Provides that if an individual dies due to the involvement of law enforcement activity, law enforcement directly involved with the death of that individual shall not be involved with any portion of the post-mortem examination, nor allowed into the autopsy suite during the performance of the autopsy. (Gov. Code, § 27522, subd. (f)(2).)

11) Prohibits, commencing January 1, 2027, a combined Sheriff-Coroner office from determining the cause of death for certain deaths, as follows:

    a) Prohibits, in any county where the offices of the sheriff and the coroner are combined, the sheriff-coroner from determining the circumstances, manner, and cause of death, as specified, for any in-custody death, but instead must do one or both of the following:

        i) Contract with one or more counties that have a coroner's office that operates independently from the sheriff, or that have established an office of medical examiner, to determine the circumstances, manner, and cause of death. The contracted entities must operate independently from the sheriff-coroner in conducting the medical examination, as specified. (Gov. Code, § 27491.56, subd. (b)(1).)

ii) Contract with one or more private third-party medical examination providers that are separate and independent from the sheriff-coroner and that meet specified physician qualification requirements to determine the circumstances, manner, and cause of death. The private provider shall operate independently from the sheriff-coroner in conducting the medical examination process, as specified. (Gov. Code, § 27491.56, subd. (b)(2).)

b) Requires the cause and manner of death listed on the death certificate to match the cause and manner of death determined by the coroner, medical examiner, or private third-party medical examination provider, as specified. (Gov. Code, § 27491.56, subd. (c).)

c) Requires, in a county with a combined sheriff-coroner, the BOS to annually select and enter into a service agreement with medical examiners or independent coroner offices from other counties, or with a private third-party medical examination provider, or with any combination of those entities. (Gov. Code, § 27491.56, subd. (d)(1).)

d) Prohibits a private third-party medical examination provider that has entered into such a service agreement from, during the term of that service agreement, being contracted by the county or the sheriff-coroner of that county to provide medical examination for any cases that do not involve in-custody deaths. (Gov. Code, § 27491.56, subd. (d)(2).)

e) Requires, upon the determination of the circumstances, manner, and cause of death, that the findings of the examination shall be delivered to the sheriff-coroner, district attorney, county health officer, and board of supervisors of the county in which the death occurred, as well as to the decedent's next of kin. (Gov. Code, § 27491.56, subd. (e).)

f) Defines "in-custody death" to mean either of the following:

i) The death of a person who is detained, under arrest, or is in the process of being arrested, is en route to be incarcerated, or is incarcerated at a municipal or county jail, state prison, state-run boot camp prison, boot camp prison that is contracted out by the state, any state or local contract facility, or other local or state correctional facility, including any juvenile facility, as well as a death that occur in medical facilities while in law-enforcement custody.

ii) A death of a person who is detained, under arrest, or is in the process of being detained or arrested, by a federal law enforcement officer, including for the purposes of immigration enforcement, or who is en route to be detained, or is detained, at a federal correctional facility or immigration detention facility, and for which the sheriff-coroner has jurisdiction or the federal government has requested an autopsy be performed by the sheriff-coroner's office. (Gov. Code, § 27491.56, subd. (f)(1)-(2); Pen. Code, § 10008, subd. (c).)

FISCAL EFFECT: Unknown.

COMMENTS:

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

2) **Author's Statement**: According to the author, "Under current law, counties may consolidate the offices of sheriff and coroner. In Riverside County, this structure has contributed to persistent challenges regarding the deaths of individuals in custody in the county's jails, including underreporting, inconsistent determinations of causes of death, and limited access to information for families and the public. In some cases, deaths involving trauma or neglect have been classified as 'natural' or 'undetermined,' raising serious concerns about investigative integrity and oversight. According to the Inland Empire Lives Lost report, between 2012 and 2022, over 226 people died while in custody in Riverside County jails. In addition, the County has had to pay out nearly $100 million in taxpayer funds for judicial settlements related to in-custody deaths. Senate Bill 1379 would require the Riverside County Board of Supervisors to separate the offices of county sheriff and coroner by July 1, 2027, and employ an independent medical examiner model. By ensuring that in-custody deaths investigations are conducted by independent, qualified medical professionals and strengthening transparency requirements, SB 1379 will help renew public confidence in Riverside County's justice system."

3) **Sheriff-Coroner Offices and Office of Medical Examiners:** The Office of the Coroner typically has three main responsibilities: medical, investigative, and administrative.[1] Medical responsibilities include conducting autopsies to determine cause of death within the jurisdiction, transporting and removing bodies, verifying cause of death and signing death certificates, and appearing at all unattended deaths unless the deceased has been seen by a physician within a specified period of time.[2] Investigative functions are composed of conducting investigations to determine causes of death and establishing the identity of the deceased person.[3] Finally, administrative responsibilities include maintaining records and responding to inquiries by law enforcement agencies and doctors with potential cases.[4]

   Forty-eight of California's 58 counties have combined Sheriff-Coroner offices, meaning the two offices are consolidated, and the sheriff also serves as the coroner.[5] The consolidation typically occurs for two reasons: 1) the maintenance and function of two separate offices is more expensive, especially for smaller counties; and 2) many of the deaths that a coroner investigates have criminal or other law enforcement components.

   The duality of Sheriff-Coroners may present a conflict of interest. Medical experts determine a subject's cause of death, but the sheriff, as an elected official, possesses final say in determining a subject's manner of death. In San Joaquin County, for example, a lawsuit was filed in 2018 alleging the sheriff's department changed an autopsy report at the center of a police excessive-force case.[6] The year before in that same county, two pathologists resigned from the office and alleged that the sheriff changed the manner of death in autopsy reports without their knowledge. The pathologists called for a split of the offices so that the

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[1] California State Association of Counties, *Sheriff-Coroner* (accessed March 28, 2025) <https://www.counties.org/county-office/sheriff-coroner> [as of June 14, 2026].
[2] *Ibid.*
[3] *Ibid.*
[4] *Ibid.*
[5] California State Association of Counties, *Sheriff-Coroner* <available at: https://www.counties.org/county-office/sheriff-coroner> [as of June 14, 2026].
[6] CBS News, *Lawsuit: Sheriff's Department Changed Autopsy Report in Police Excessive Force Case* (April 21, 2018<https://www.cbsnews.com/sacramento/news/lawsuit-sheriff-changed-autopsy-report/> [as of June 14, 2026].

independence of the coroner could be guaranteed.[7] The San Joaquin County Board of Supervisors ultimately voted to replace the coroner's office with a medical examiner.[8]

In contrast, other counties utilize an office of the medical examiner that is independent from the Sheriff's Office. Existing law authorizes a BOS to abolish the office of coroner and provide instead for the office of medical examiner, to be appointed by the board and to exercise the powers and perform the duties of the coroner. (Gov. Code, § 24010.) Given the lower costs associated with maintaining a single Sheriff-Coroner Office, this option is typically utilized by larger, better-resourced counties. A medical examiner functions as the medical doctor responsible for examining bodies post-mortem to determine cause of death. Unlike Sheriff-Coroners, a medical examiner must be a licensed physician and surgeon duly qualified as a specialist in pathology. (Gov. Code, § 24010). Medical examiners' responsibilities may include investigating sudden or unnatural deaths, performing forensic medicine and pathology consultations, counseling families regarding manners and causes of death, testifying in courts, conducting physical examinations and laboratory tests, conducting inquests, and serving subpoenas for witnesses.

4) **In-Custody Deaths in Riverside County:** Riverside County operates a combined sheriff-coroner office.[9] In 2024, the New York Times labeled Riverside "one of America's deadliest jail systems."[10] There were 226 jail in-custody deaths from 2011 to 2022 in Riverside County, according to a report by the criminal justice nonprofit Care First California.[11] In 2022, at least 19 people died while held in Riverside County detention facilities, which is a higher rate of jail deaths than in LA County that year, which had three times as many inmates.[12] According to Attorney General Bonta, 2022 was the deadliest year in Riverside County jails in over two decades.[13] A New York Times investigation determined that "the department has omitted pertinent facts about the deaths in communications to families of the deceased and to the public."[14] Attorney General Bonta recently opened an ongoing civil rights investigation into the increase in deaths in custody, and Riverside County agreed to pay more than $12 million to settle lawsuits linked to detainee deaths going back to 2020.[15] In 2024, at least a dozen cases were still pending.[16]

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[7] CBS News, *Pathologists Who Resigned Call for San Joaquin County Sheriff-Coroner Split* (Dec. 8, 2017) <https://www.cbsnews.com/sacramento/news/pathologists-who-resigned-call-for-san-joaquin-county-sheriff-coroner-split/> [as of June 14, 2026].
[8] KQED, *San Joaquin County Sheriff Stripped of Role in Death Investigations* (April 25, 2018) <https://www.kqed.org/news/11664465/san-joaquin-county-sheriff-stripped-of-role-in-death-investigations> [as of June 14, 2026].
[9] Riverside County Sheriff, *Coroner's Bureau* <https://www.riversidesheriff.org/389/Coroners-Bureau> [as of June 14, 2026].
[10] Christopher Damien, *The Deadliest Year Inside One of America's Deadliest Jail Systems*, The New York Times (Nov. 1, 2024) <https://www.nytimes.com/2024/11/01/us/california-jail-deaths-riverside-county.html> [as of June 14, 2026].
[11] Deborah Brennan, *Amid jail deaths spike, groups call for splitting coroner from Riverside sheriff's Office*, CalMatters (Apr. 2, 2025) <https://calmatters.org/justice/2025/04/riverside-sheriffs-office/> [as of June 14, 2026].
[12] Aument and Kessler, *In a California county where the sheriff is also the coroner, families seek change* (June 6, 2024) <https://www.theguardian.com/us-news/article/2024/jun/06/riverside-california-sheriff-chad-bianco-coroner> [as of June 14, 2026].
[13] Terry Castleman, *Death in sheriff's custody leads Riverside County to pay $7.5 million settlement* (May 21, 2024) <https://www.latimes.com/california/story/2024-05-21/riverside-county-pays-7-5-million-settlement-death-in-custody> [as of June 14, 2026].
[14] Damien, *supra*.
[15] *Ibid.*
[16] *Ibid.*

In December 2023, Riverside County supervisors Kevin Jeffries and V. Manuel Perez authored a proposal to study the separation of the coroner from the sheriff, stating that "[w]hile there is no evidence of any improprieties in Riverside County regarding the operations of the coroner's office under the sheriff… the optics of a potential conflict of interest can lead to a loss of confidence in our institutions." [17] The Executive Office to the Board of Supervisors, which analyzed this proposal, advised against separating the sheriff's office from the coroner, in part because of costs.[18] The report additionally recommended that the Sheriff's department enter arrangements with neighboring counties to investigate jail deaths and deaths involving use of force.[19] In March of 2024, the Riverside BOS agreed to maintain a combined sheriff-coroner's office.[20] They additionally voted to adopt a new arrangement of referring autopsies for individuals who died in county jails to be outsourced to neighboring agencies.[21]

5) **AB 1108 (Hart), Chapter 389, Statutes of 2025:** While counties are permitted to establish an independent office of medical examiners, this is subject to the discretion of the BOS. In 2025, the Legislature enacted AB 1108 (Hart), Chapter 389, Statutes of 2025. This bill went a step further and prohibited any combined Sheriff-Coroner from determining the manner of death for certain types of "in-custody deaths." (Gov. Code, § 27491.56, subd. (b).) This prohibition applies to the death of a person who is detained, under arrest, or is in the process of being arrested, is en route to be incarcerated, or is incarcerated at a municipal or county jail, state prison, including any juvenile facility, as well as a death that occurs in medical facilities while in law-enforcement custody, and certain immigration-enforcement related deaths. (Gov. Code, § 27491.56, subd. (f)(1). Notably, it does not include deaths caused by law enforcement that occur outside of custody. AB 1108 prohibited Sheriff-Coroner's from making death determinations for these types of deaths, and instead, required them to either: 1) contract with a county that has a coroner's office that operates independently from the office of the sheriff, or that has established an office of medical examiner to determine the manner of death; or 2) contract with one or more private third-party medical examination providers that are separate and independent from the office of the sheriff-coroner and that meet specified physician qualification requirements to determine the circumstances, manner, and cause of death. (Gov. Code, § 27491.56, subd. (b)(2).) The provisions of AB 1108 go into effect on January 1, 2027. Given that Riverside County operates a combined sheriff-coroner's office, the county will be required to comply with the above requirements.

6) **Effect of this Bill:** California counties are authorized, but not required, to abolish the office of the coroner and provide instead for the office of the medical examiner, which exercises the powers and performs the duties of the coroner. (Gov. Code, § 24010). This bill, a special statute specific to Riverside County, removes this discretion and requires the Riverside BOS to separate the offices of the sheriff and coroner by July 1, 2027. As part of this change, it requires the BOS, for "medicolegal death investigation services", to move those services to

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[17] Aument and Kessler, *supra*.
[18] *Ibid.*
[19] Jeff Horseman, *Keep Riverside County Sheriff's Department and Coroner together, report says* (March 11, 2024) < https://www.pressenterprise.com/2024/03/11/keep-riverside-county-sheriffs-department-and-coroner-together-report-says/> [as of June 14, 2026].
[20] Jeff Horseman, *Coroner, sheriff's will be kept together, Riverside County board decides* (March 12, 2024) <https://www.pressenterprise.com/2024/03/12/coroner-sheriffs-will-be-kept-together-riverside-county-board-decides/> [as of June 14, 2026].
[21] Aument and Kessler, *supra*.

the coroner's office and require the use of an independent medical examiner model for the services. It also prohibits a person other than the coroner or a medical examiner from signing a death certificate or any portion of a postmortem examination.

The author may wish to clarify whether the purpose of this bill is to establish a separate office of the Coroner in Riverside County or to adopt an office of a medical examiner, as authorized by Government Code 23010. The bill requires that death investigation services be "move[d] to the coroner's office, which suggests intent to require Riverside County to maintain a separate and independent office of the Coroner. On the other hand, the bill "[r]equire[s] the use of an independent medical examiner model for the [death investigation] services," and prohibits anyone other than "the coroner or a medical examiner" from signing a death certificate, which suggests that it may be requiring Riverside County to adopt an office of a medical examiner, as authorized under Government Code 24010. If the intent is to simply separate the offices and create an independent coroner's office, the author may wish to clarify the references to a medical examiner in this bill.

The bill imposes in-custody reporting and notification requirements on Riverside County. It requires Riverside County to publish specified information on its website. Information that must be posted includes: 1) an initial incident report of an in-custody death within 24 hours of the death; 2) a preliminary report of an in-custody death within 72 hours of the death; 3) in-custody death data in a centralized public database that includes the number of deaths by facility, the cause of death for each death, demographic data of the deceased, and medical response times to the incident resulting in the death; 4) notice of each in-custody serious incident, including a suicide attempt, drug overdose, a person suffering severe withdrawal symptoms, a person suffering medical distress during restraint, and any time a person's medical request is ignored and that person is subsequently taken to the hospital; and 5) any DOJ in-custody death reporting form submitted to the DOJ for an in-custody death. It also requires Riverside County to notify the next of kin of the cause of death of an in-custody death within 72 hours of the determination of the cause of death. These requirements apply to the County of Riverside, not the office of the sheriff.

This reporting would encompass "in-custody" deaths, which means the death of a person who is detained, under arrest, or is in the process of being arrested by the county sheriff's office, is en route to be incarcerated by the county sheriff's office, is incarcerated at a county jail, and is at a medical facility while in custody of the county sheriff's office. This definition is similar to the definition of "in-custody death" used in AB 1108 (Hart), Chapter 389, Statutes of 2025. Like the definition used in AB 1108, it does not apply to deaths that occur outside of law enforcement custody, even if they were caused by law enforcement use of force.

These reporting provisions raise several issues for the author to consider. First, some of the proposed new reporting obligations on Riverside County are duplicative of existing law. Law enforcement agencies are already subject to certain reporting obligations when a person dies in custody. If a person dies in law enforcement custody, the law enforcement agency or agency in charge of the correctional facility must report to the DOJ, within 10 days after the death, all facts in the possession of the agency concerning the death. (Gov. Code, § 12525, subds. (a) & (b).) If any of that information changes or new information becomes available, the agency must update its written report to the AG within 10 days of the date that new

information becomes available. (*Ibid.*) These records are subject to public disclosure under the California Public Records Act. (Gov. Code, § 12525, subd. (c).)

In addition to the above reporting to the DOJ, an in-custody death also requires the agency with jurisdiction over the applicable correctional facility to post specified information on its website within 10 days of the death. (Pen. Code, § 10008, subd. (a).) Particularly, the applicable agency must post: 1) the name of the agency with custodial responsibility at the time of death; 2) the county in which the death occurred; 3) the facility in which the death occurred; 4) the location within that facility where the death occurred; 5) the race, gender, and age of the decedent; 6) the date on which the death occurred; 7) the custodial status of the decedent; and 8) the manner and means of death. (Pen. Code, § 10008, subd. (a).) Similar to the reporting to the DOJ, if any of the information changes, the agency shall update the posting within 30 days of the change. (Pen. Code, § 10008, subd. (b)(1).)

Some of the information this bill requires to be reported, such as initial and preliminary reports surrounding the death and demographic information of the decedent, may already be included in reporting to the DOJ and the public. The bill also creates multiple disclosure timelines following an in-custody death. Currently, an in-custody death requires reporting to the DOJ and online reporting to the public within 10 days of the death. (Pen. Code, § 10008, subd. (b); Gov. Code, § 12525, subd. (a).) This bill would require Riverside County to post online an initial incident report of an in-custody death within 24 hours of the death, and a preliminary report of an in-custody death within 72 hours of the death. These different timelines may contribute to inconsistent and duplicative in-custody death reporting timelines in Riverside County.

Given that in-custody deaths already trigger reporting obligations, including to the public and to the AG, the need for additional reporting requirements is somewhat unclear. If the goal is to supplement existing reporting obligations for in-custody deaths, it may be prudent to do so through generally applicable laws, rather than singling out one particular county for heightened disclosure obligations. This is particularly true given that Riverside County is by no means the only county jail system that has experienced an increase in in-custody deaths.[22]

Finally, the author may wish to clarify the meaning of some of the terms used to describe reportable information. The bill requires the online reporting of any in-custody "serious" incident, which, among other things, is defined to include a person suffering "severe" withdrawal symptoms, and a person suffering "medical distress" during restraint. The author may wish to define or expand upon the use of the term "serious incident," identify what type of symptoms are considered "severe," and define the term "medical distress. Compliance with the reporting requirements of this bill may be difficult absent additional specificity and clarity as to what type of incidents are reportable.

7) **Special Statute:** The California Constitution states that "a local or special statute is invalid in any case if a general statute can be made applicable." (Cal Const, art. IV, § 16.) Effectively, special legislation is generally prohibited unless the exigency of the circumstances demands a

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[22] Between 2006 and 2020, 185 people died in San Diego County jails – one of the highest totals among counties in the State. (California State Auditor, Report 2021-109, *San Diego County Sheriff's Department – It Has Failed to Adequately Prevent and Respond to the Deaths of Individuals in Its Custody* (Feb. 3, 2022) <https://www.auditor.ca.gov/reports/2021-109/index.html> [as of March 26, 2024].)

special law. (*Sacramento v. Swanston* (1915) 29 Cal.App. 212, 216.) A law is considered "special" "if it confers particular privileges, or imposes peculiar disabilities or burdensome conditions, in the exercise of a common right, upon a class of persons arbitrarily selected from the general body of those who stand in precisely the same relation to the subject of the law." (*Law School Admission Council, Inc. v. State of California* (2014) 222 Cal.App.4th 1265, 1298.) This bill establishes specific requirements and conditions for a single California county, a strong indicator of special legislation.

The constitutional prohibition against special legislation does not prohibit the Legislature from enacting statutes, such as this bill, that "apply solely to a particular county or local entity… if there is a rational relationship between the purpose of the statute… and the singling out of [a single]… county affected by the statute." (*City of Malibu v. California Coastal Com.* (2004) 121 Cal.App.4th 989, 995 [quoting (*White v. Cal.* (2001) 88 Cal.App.4th 298, 305).] The Legislature's determination that a rational relationship exists is "entitled to great weight and will not be reversed unless the determination is arbitrary and without conceivable factual or legal basis." (*White*, *supra*, 88 Cal.App.4th at p. 305). In support of this special statute, the bill states, "the significantly higher rates of deaths in the County of Riverside jails compared to the rest of the state." While there has been an increase in in-custody deaths in Riverside County jails in recent years, there has also been a substantial increase in jail deaths across the state more generally.[23] If this bill is challenged as an unconstitutional special statute, whether the specific conditions in Riverside County justify special legislation will be up to a court to decide.

8) **Argument in Support**: According to the *Drug Policy Alliance*, "As long as sheriff-coroner offices remain combined, the inherent conflict of interests will obscure the truth about how loved ones died under the Sheriff's custody. While this issue persists throughout California, SB 1379's approach of separating the offices of the sheriff and coroner in a county with a disproportionate number of in-custody deaths is an important first step in the right direction…

"Riverside County has reported disproportionately high in-custody deaths for over a decade, including high in-custody death rates during Sheriff Chad Bianco's tenure. From 2011-2022, there were 226 in-custody deaths reported in Riverside County and 216 in San Bernardino County. In other words, these counties accounted for 19% of the state's in-custody deaths during that period, despite only making up around 12% of the state population. These deaths have only continued since then, with 45 in-custody deaths recorded in Riverside County from 2021-2024.

"SB 1379 will ensure that medical examinations and investigations of sudden, violent, unexplained, or suspicious deaths in Riverside County jails are conducted with integrity, providing families with the closure and dignity they deserve. Moreover, these objective medical reports will help Riverside County implement the necessary reforms to drive down their epidemic of in-custody deaths. As long as Sheriff-Coroner Offices are allowed to conduct medical examinations for law enforcement-involved incidents, conflicts of interest

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[23] Duara and Kimelman, *California jails are holding thousands fewer people, but far more are dying in them* (March 25, 2024) <https://calmatters.org/justice/2024/03/death-in-california-jails/> [as of June 21, 2026].

and bias will get in the way of the truth."

9) **Argument in Opposition**: According to the *California State Sheriff's Association,* "The current sheriff-coroner model utilized by choice by a vast majority of California's counties (48 of 58) enjoys the benefit of operational and budgetary efficiency. Separating these offices will remove investigative efficiencies and drastically increase county costs unnecessarily by requiring the county to stand up a separate coroner office.

"From a governance perspective, this bill is heavy-handed and disregards local control. Existing law already permits counties to pursue multiple models of county office consolidation or separation. In fact, in late 2023, the Riverside County Board of Supervisors directed its Executive Office to evaluate separating the coroner's bureau from the sheriff's department. Having done that, the Executive Office communicated the following to the Board: 'As a result of an extensive evaluation, the Executive Office has reached the conclusion that the negative impacts of separating the Coroner's Bureau and/or Public Administrator from the Sheriff's Department significantly outweigh the perceived benefit and would not be in the best interests of the community.'

"This is a decision best left to the sound discretion of local officials who have budget authority and relevant local experience."

10) **Prior Legislation**:

a) AB 1108 (Hart), Chapter 389, Statutes of 2025, prohibited a sheriff-coroner, in any county where the offices of the sheriff and the coroner are combined, from determining the circumstances, manner, and cause of death for any in-custody death, and instead requires the sheriff-coroner to contract with another county or a private third-party medical examination provider, as specified, to determine the manner, circumstances, and cause of the in-custody death.

b) AB 360 (Gipson), Chapter 431, Statutes of 2023, provided that "excited delirium" is not a validly recognized medical diagnosis or cause of death.

c) AB 2531 (Bryan), Chapter 968, Statutes of 2024, clarified that death-in-custody reporting requirements apply to juveniles who die in custody and defined "in-custody death."

d) AB 1608 (Gipson), of the 2021-2022 Legislative Session, would have eliminated the authority of a county board of supervisors to consolidate the duties of the sheriff with the duties of the coroner, or the duties of the sheriff with the tax collector. AB 1608 failed passage on the Senate Floor.

e) AB 2761 (McCarty), Chapter 802, Statutes of 2022, required a state or local correctional facility to post specified information on its website within 10 days after the death of a person who died while in custody, and to update that information within 30 days of any change.

f) SB 1303 (Pan), of the 2017-2018 Legislative session, would have replaced the coroner with an independent office of the medical examiner in counties with 500,000 or more residents or allowed counties to retain the sheriff-coroner position and adopt a policy to

refer cases where the sheriff-coroner may have a conflict to a county that has an independent medical examiner. SB 1303 was vetoed.

g) SB 1189 (Pan), Chapter 787, Statutes of 2017, prohibited, if an individual dies due to the involvement of law enforcement activity, law enforcement personnel directly involved with the care and custody of that individual from being involved with any portion of the postmortem examination, nor allowed inside the autopsy suite during the performance of the autopsy.

REGISTERED SUPPORT / OPPOSITION:

Support

ACLU California Action
California Coalition for Sheriff Oversight (CCSO)
California Public Defenders Association
Drug Policy Alliance 1
Ella Baker Center for Human Rights
Smart Justice California, a Project of Beyond Impact

Opposition

California State Association of Public Administrators, Public Guardians, and Public Conservators
California State Sheriffs' Association
County of Fresno
Fresno County Board of Supervisors
Riverside County Sheriff's Office

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

Date of Hearing: June 30, 2026
Counsel: Mary Kennedy

ASSEMBLY COMMITTEE ON PUBLIC SAFETY
Nick Schultz, Chair

SB 1418 (Cervantes) – As Amended June 11, 2026

SUMMARY: Expands the provision that prohibits the destruction of specified voting related documents, and expands criminal and civil penalties related to wrongfully handling poll documents. Specifically, **this bill**:

1) Expands the felony for wrongful acts relating to an election to include knowingly taking any document, record, or certified voting technology from the custody of the elections official in violation of the law.

2) Expands the need to keep election related documents that have not been destroyed to not only the finality of a criminal prosecution but also to the final determination of a contest or criminal investigation, and expands the items that must be kept to include certified voting technology.

3) Expands the right to bring a civil action against an individual to the taking of any document, record, or certified voting technology from the custody of elections official before, during, or after an election.

EXISTING LAW:

1) Provides that the records and supplies of the election when received by the elections official shall be disposed of in the manner set forth in the Elections Code. (Elec. Code, § 15550.)

2) Provides if a contest for any such criminal prosecution has been commenced prior to the date fixed for its destruction, the package containing the voted ballots shall be subject to the order of the court in which the contest or criminal prosecution is pending and shall not be destroyed until after final determination of the contest or criminal prosecution. (Elec. Code, § 15551.)

3) Provides in the case of a congressional election contest, the elections official shall hold the ballots of the congressional district in custody subject to the inspection of any committee of the House of Representatives having in charge the investigation of the contest, until the final determination of the contest by the House of Representatives. (Elec. Code, § 15551.)

4) Provides in the case of a contest in the State Legislature, the elections official shall hold the ballots of the Senate Assembly district in custody subject to the inspection of any committee of the Senate or Assembly having in charge the investigation of the contest until the final determination of the contest of the final adjournment of the session of the Legislature in which the contest is filed, whichever is later. (Elec. Code, § 15551.)

5) Provides that in no event shall the package or its contents be taken from the custody of the elections official. (Elec. Code, § 15551.)

6) Makes it a felony for any person who before or during an election:

   a) Tampers with, interferes with, or attempts to interfere with, the correct operation of, or willfully damages in order to prevent the use of, any voting machine, voting device, voting system, vote tabulating device, or ballot tally software program source codes;

   b) Interferes or attempts to interfere with the secrecy of voting or ballot tally software program source codes;

   c) Knowingly, and without authorization, makes or has in his or her possession a key to a voting machine that has been adopted and will be used in elections in this state;

   d) Willfully substitutes or attempts to substitute forged or counterfeit ballot tally software program source codes. (Elec. Code, § 18564.)

7) Provides that the Secretary of State, Attorney General and any local election official in the county in which the act occurs may bring a civil action against an individual, business, or other legal entity that commits any of the following acts before, during, or after an election:

   a) Tampers, interferes, or attempts to interfere with the correct operation of or willfully damages in order to prevent the use of any voting machine, voting device, voting system, vote tabulating device, or ballot tally software;

   b) Interferes or attempts to interfere with the secrecy of voting or interferes or attempts to interfere with ballot tally software program source codes;

   c) Knowingly and without authorization, gains access to or provides another person or persons with access to a voting machine for the purpose of committing one of the acts specified in this section.

   d) Willfully substitutes or attempts to substitute forged, counterfeit, or malicious ballot tally software program source codes.

   e) Knowingly, and without authorization, inserts or causes the insertion of uncertified hardware, software, or firmware, for whatever purpose into any voting machine, voting device, voting system, vote tabulating device or ballot tally software.

   f) Fails to notify the Secretary of State prior to any change in hardware, software, or firmware to a voting machine, voting device, voting system or vote tabulating device, certified or conditionally certified for use in this state. (Elec. Code, § 18564.5 (a).)

8) Provides that a civil action may be brought for a civil penalty not to exceed $50,000 for each act and for injunctive relief, if appropriate. (Elec. Code, § 18564.5 (a).)

9) Provides that it is a felony for any person to:

a) Aids in changing or destroying any poll list or official ballot.

b) Aids in wrongfully placing any ballots in the ballot container or in a taking any therefrom.

c) Adds or attempts to add any ballots to those legally polled at any election by fraudulently putting them into the ballot container, either before or after the ballots therein have been counted.

d) Adds to or mixes with, or attempts to add to or mix with, the ballots polled, any other ballots, while they are being counted or canvassed or at any other time, with intent to change the result of the election, or allows another to do so, when in his or her power to prevent it.

e) Carries away or destroys, attempts to carry away or destroy, or knowingly allows another to carry away or destroy, any poll list, ballot container, or ballots lawfully polled who willfully detains, mutilates, or destroys any election returns.

f) Removes an unvoted ballot from the polling place before the completion. (Elec. Code, § 18568.)

10) Provides that election officials shall preserve specified documents related to elections such as voting lists, ballots, identification envelopes for specified periods of time. (Elec. Code, §§ 17300-17304.)

FISCAL EFFECT: Unknown.

COMMENTS:

1) **Sponsor**: Office of the Attorney General Rob Bonta

2) **Author's Statement**: According to the author, "Democracy in California is under attack, not only by the Trump Administration but also by some officials in our state, including Riverside County Sheriff Chad Bianco. In March, Sheriff Bianco seized more than 600,000 voted ballots from the 2025 statewide special election on Proposition 50 from the Riverside County Registrar of Voters as part of a sham investigation driven by conservative extremist groups. This seizure was in violation of state law, which required that voted ballots remain in the custody of county registrars. In response, my Senate Bill 73 provided additional guardrails against the seizure of ballots from the custody of county registrars. However, in April, a group of press organizations including CalMatters successfully petitioned a court to unseal the warrants Bianco obtained. They found that, in addition to voted ballots, those warrants authorized the seizure of other election records from the Riverside County Registrar of Voters. Senate Bill 1418 is a follow-up to SB 73 that will extend the protections in that bill to other kinds of election records, including voting machines and voting software, and protect the chain of custody of those materials."

3) **Expansion/update of felony:** Existing law makes it a jail felony for any person to do specified acts related to official ballots and other election related materials including "knowingly taking a package containing voted ballots or its contents from the custody of the

elections code official." (Elec. Code, § 18568, subd. (i).) This bill deletes the reference to a package containing voted ballots or its contents and instead makes it a felony to knowingly take "any document, record, or certified voting technology" from the custody of the elections official.

4) **Expansion/update of civil action:** This bill will be heard in Elections Committee after this Committee, and this issue is primarily their jurisdiction. Existing law allows the Secretary of State, Attorney General, and any local election official in the county to bring a civil action for specific election tampering acts. One of those specific acts is the taking of any package containing the voted ballots or its contents from the custody of the elections official. This bill deletes the taking of any package and instead allows a civil action for taking "any document, record, or certified voting technology" from the custody of the elections official.

5) **Preservation requirements:** Another section more in the purview of the Elections Committee, this bill also expands which documents must be preserved when there is a criminal prosecution and also makes that requirement applicable to any contest or criminal investigation.

6) **Argument in Support**: According to the *Office of the Attorney General Rob Bonta*, "California law currently provides protections for voted ballots by narrowly limiting their use to election contests and certain criminal prosecutions subject to court order, and by requiring that elections official always maintain physical custody over the voted ballots. However, election administration increasingly relies on a broader range of records (including electronic records), equipment, and certified voting technologies that may be necessary to investigate allegations of election misconduct, resolve election contests, or preserve evidence during criminal prosecution of an election crime. "

   "SB 1418 would address these concerns by expanding an existing prohibition in state law (Elections Code section 15551, subdivision (d)) on removing voted ballots from the custody of local elections officials. SB 1418 would expand that prohibition to any record or document that must be preserved by elections officials under law, certified voting technologies and electronic data, and any other election material or equipment necessary to conduct an election. "

   "With state and federal law enforcement actors becoming more emboldened to meddle in election administration, SB 1418 seeks to protect our most important election materials by keeping them in the custody of elections officials, even when subject to a search warrant."

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

8) **Related Legislation**: SB 884 (Umberg) makes, for elections through 2029, a number of changes regarding mail in ballots and activities near a polling place including limiting the ability of law enforcement to make arrests during voting hours. SB 884 is scheduled for hearing today in this committee.

REGISTERED SUPPORT / OPPOSITION:

Support

Office of The Attorney General Rob Bonta

Opposition

None submitted.

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

Date of Hearing: June 30, 2026
Deputy Chief Counsel: Stella Choe

ASSEMBLY COMMITTEE ON PUBLIC SAFETY
Nick Schultz, Chair

SB 1427 (Committee on Public Safety) – As Amended May 5, 2026

SUMMARY: Makes technical and non-controversial changes to various code sections relating generally to criminal justice laws, as specified. Specifically, **this bill**:

1) Adds "secure youth treatment facility within a juvenile hall" to the list of facilities for which it is a crime for a person to knowingly bring or send into, or knowingly assist in bringing into, or sending into, any county juvenile hall, ranch, camp, or forestry camp, any prohibited controlled substance, firearm, weapon, explosive of any kind, any tear gas, or tear gas weapon and for which it is a crime to possess of any of those items by a person confined in any of those facilities.

2) Clarifies that the court can order an incompetent to stand trial (IST) defendant whose mental competence has not been restored, to the conservatorship investigator of the county of commitment of the defendant to initiate conservatorship proceedings for the defendant whenever it appears to the court that the defendant is gravely disabled, under either Welfare and Institutions Code section 5008, subdivision (h)(1)(A), subdivision (h)(1)(B), or both.

3) Strikes language requiring an in-person or a virtual interview with the applicant for all firearm licenses.

4) Includes "or any corporation, excluding a California corporation, that transacts intrastate business" within the definition of "foreign corporation" for purposes of whether a search was properly served.

5) Provides that "properly served" includes "any means reasonably calculated to give actual notice" in the case that "the recipient is not qualified to do business in this state pursuant to Section 2105 of the Corporations Code."

6) Amends existing law that to remove the annual requirement that the county board of supervisors, in any county in which the offices of the sheriff and the coroner are combined, to select and enter into a service agreement or service agreements with medical examiners or independent coroner offices from other counties, or with one or more private third-party medical examination providers, or with any combination of those medical examiners, independent coroner offices, or private third-party medical examination providers.

7) Reorganize provisions of law pertaining to annual reporting requirements for court-ordered debt collection activities.

8) Includes a savings clause (i.e., it specifies that all other statutory changes enacted during the 2026 calendar year will preempt changes to the same code sections made by this bill).

9) Makes other technical or corrective changes.

EXISTING LAW:

1) Makes it a wobbler for a person to knowingly bring or send into, or knowingly assist in bringing into, or sending into, any county juvenile hall, ranch, camp, or forestry camp, any prohibited controlled substance, firearm, weapon, explosive of any kind, any tear gas, or tear gas weapon. Prohibits the possession of any of those items by a person confined in any of those institutions. (Welf. & Inst. Code, § 871.5, subd. (a).)

2) Requires, if during the pendency of an action and prior to judgment, a doubt arises in the mind of the judge as to the mental competence of the defendant, the judge to state that doubt in the record and inquire of the attorney for the defendant whether, in the opinion of the attorney, the defendant is mentally competent. Requires the court, at the request of the defendant or defendant's counsel or upon its own motion, to recess the proceedings for as long as may be reasonably necessary to permit counsel to confer with the defendant and to form an opinion as to the mental competence of the defendant at that point in time. (Pen. Code, § 1368, subd. (a).)

3) Requires the court, if counsel informs the court that they believe the defendant is or may be mentally incompetent, to order that the question of the defendant's mental competence is to be determined. Authorizes the court, if counsel informs the court that they believe the defendant is mentally competent, to order a determination by the court of the defendant's mental competence. (Pen. Code, § 1368, subd. (b).)

4) Requires all proceedings in the criminal prosecution to be suspended when an inquiry into the present mental competence of the defendant has been commenced by the court until the question of the present mental competence of the defendant has been determined, except as provided. (Pen. Code, § 1368, subd. (c).)

5) Outlines the process by which the question of mental competence must proceed. (Pen. Code, § 1369.)

6) Provides that Section 1370 applies to a person who is charged with a felony or alleged to have violated the terms of probation for a felony or mandatory supervision and is incompetent as a result of a mental health disorder. Provides that Section 1370.01 applies to a person who is charged with a misdemeanor or misdemeanors only, or a violation of formal or informal probation for a misdemeanor, and the judge finds reason to believe that the defendant has a mental health disorder, and may, as a result of the mental health disorder, be incompetent to stand trial. (Pen. Code, § 1367, subd. (b).)

7) Requires the criminal process to resume, the trial on the offense charged or hearing on the alleged violation to proceed, and judgment to be pronounced, if the defendant is found mentally competent. (Pen. Code, § 1370, (a)(1)(A).)

8) Requires the trial, the hearing on the alleged violation, or the judgment to be suspended, if the defendant is found mentally incompetent (and is not charged with an offense that would

make the defendant ineligible for mental health diversion). Requires the court to do all of the following:

a) Determine whether restoring the person to mental competence is in the interests of justice;

b) If restoring the person to mental competence is in the interests of justice, the court must state its reasons orally on the record and the case shall proceed, as provided; and,

c) If restoring the person to mental competence is not in the interests of justice, the court must conduct a mental health diversion hearing, and, if the court deems the defendant eligible, grant diversion 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. (Pen. Code, § 1370, (a)(1)(B).)

9) Requires a defendant to be returned to the committing court, if, 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, whichever is shorter, but no later than 90 days prior to the expiration of the term of commitment, the defendant has not recovered mental competence. Requires custody of the defendant to be transferred without delay to the committing county and shall remain with the county until further order of the court. Prohibits the court from ordering the defendant returned to the custody of the State Department of State Hospitals under the same commitment. Requires the court to notify the community program director or a designee of the return and of any resulting court orders. (Pen. Code, § 1370, subd. (c)(1).)

10) Requires the court, whenever a defendant is defendant is returned to the committing court because the defendant has not recovered mental competence, to order the conservatorship investigator of the county of commitment of the defendant to initiate conservatorship proceedings for the defendant whenever it appears to the court that the defendant is gravely disabled, as defined. Specifies that gravely disabled to mean that the person meets the definition in Welfare and Institutions Code section 5008, subdivision (h)(1)(A) (Lanterman-Petris-Short conservatorship) or subdivision (h)(1)(B) (*Murphy* conservatorship). (Pen. Code, § 1370, subd. (c)(3).)

11) 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; or;

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)(A) & (B).)

12) Outlines the criteria by which an applicant for a firearms license will be deemed to be a disqualified person and cannot receive or renew a license. (Pen. Code, § 26202, subd. (a).)

13) Requires the licensing authority to conduct an investigation that meets specified requirements in determining whether an applicant is a disqualified person and cannot receive or renew a license. (Pen. Code, § 26202, subd. (b).)

14) Requires an in-person or a virtual interview of the applicant for specified firearm licenses. Specifies that for renewal applications, the licensing authority may elect to forgo this requirement. (Pen. Code, § 26202, subd. (b)(1).)

15) Defines "foreign corporation" as "any corporation that is qualified to do business in this state pursuant to Section 2105 of the Corporations Code." (Pen. Code, § 1524.2, subd. (a)(5).)

16) Defines "properly served" to mean that "a search warrant has been delivered by hand, or in a manner reasonably allowing for proof of delivery if delivered by United States mail, overnight delivery service, or facsimile to a person or entity listed in Section 2110 of the Corporations Code, or any other means specified by the recipient of the search warrant, including email or submission via an internet web portal that the recipient has designated for the purpose of service of process." (Pen. Code, § 1524.2, subd. (a)(6).)

17) Prohibits, in any county where the offices of the sheriff and the coroner are combined, the sheriff-coroner from determining the circumstances, manner, and cause of death for any in-custody death. Requires the sheriff-coroner to instead do one or both of the following:

    a) Contract with one or more counties that have a coroner's office that operates independently from the office of the sheriff, or that have established an office of medical examiner, to determine the circumstances, manner, and cause of death. Requires the contracted coroners or medical examiners to operate independently from the office of the sheriff-coroner in conducting the medical examination process, including, but not limited to, exercising professional judgment to make determinations of the circumstances, manner, and cause of death; and,

    b) Contract with one or more private third-party medical examination providers that are separate and independent from the office of the sheriff-coroner and that meet the physician qualification requirements to determine the circumstances, manner, and cause of death. Requires a private third-party medical examination provider to operate independently from the office of the sheriff-coroner in conducting the medical examination process, including, but not limited to, exercising professional judgment to make determinations of the circumstances, manner, and cause of death. (Gov. Code, § 27491.56, subd. (b).)

18) Requires the county board of supervisors, in any county in which the offices of the sheriff and the coroner are combined, to annually select and enter into a service agreement or service agreements with medical examiners or independent coroner offices from other counties, or with one or more private third-party medical examination providers, or with any combination of those medical examiners, independent coroner offices, or private third-party medical examination providers. (Gov. Code, § 27491.56, subd. (d)(1).)

19) Requires the courts and Judicial Council to report debt collection activities annually. (Gov. Code, § 68514; Pen. Code, § 1463.007.)

FISCAL EFFECT: Unknown.

COMMENTS:

1) **Sponsor**: Senate Committee on Public Safety

2) **Author's Statement**: According to the author, "This is the annual public safety omnibus bill. In past years, the omnibus bill has been introduced by all members of the Committee on Public Safety. This bill is similar to the ones introduced as Committee bills in the past, in that it has been introduced with the following understanding:

   - The bill's provisions make only technical or minor substantive but non-controversial changes to the law; and,

   - There is no opposition by any member of the Legislature or recognized group to the proposal.

   "This procedure has allowed for the introduction of fewer minor bills and has saved the Legislature time and expense over the years."

3) **Division of Juvenile Justice (DJJ) Closure:** With the passage of SB 823 (Committee on Budget), Chapter 337, Statutes of 2020, the state planned the closure of DJJ and realigned the responsibility for managing all youth under the jurisdiction of the juvenile courts to county probation departments. SB 92 (Committee on Budget), Chapter 18, Statutes of 2021, was enacted the following year to establish a new dispositional option for juveniles ages 14 and over who are adjudicated for a Welfare and Institutions Code section 707(b) offense (i.e., a specified serious or violent felony) and for whom a less restrictive alternative disposition is not suitable. This dispositional option—commitment to an SYTF—is a secured, custodial setting.

   This bill contains provisions to update statutes to reflect the closure of DJJ.

   Penal Code section 17, subdivision (c) requires, when a defendant is committed to an SYTF for a crime punishable, in the discretion of the court, either by imprisonment in the state prison or imprisonment in a county jail (as a realigned felony), or by fine or imprisonment in the county jail not exceeding one year, the offense be deemed a misdemeanor for all purposes upon the discharge of the defendant from the secure youth treatment facility.

This bill changes all references to "defendant" in the above provision to "person" to reflect that fact that individuals tried in juvenile court are not criminal "defendants."

Welfare and Institutions Code section 871.5 makes it a wobbler for a person to knowingly bring or send into, or knowingly assist in bringing into, or sending into, any county juvenile hall, ranch, camp, or forestry camp, any prohibited controlled substance, firearm, weapon, explosive of any kind, any tear gas, or tear gas weapon. Section 871.5 also prohibits the possession of any of those items by a person confined in any of those institutions.

This bill amends Section 871.5 to add "secure youth treatment facility within a juvenile hall" to reflect that DJJ has closed and the individuals who were once committed to DJJ are now generally committed to an SYTF.

4) **IST Defendants Referred for Conservatorship Investigation:** 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 or is to assist counsel in his or her defense, the court may determine that the offender is incompetent to stand trial (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).)

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 must be returned to the committing court and the court is prohibited from ordering the defendant returned to the custody of the Department of State Hospitals. (Pen. Code, § 1370, subd. (c)(1).) Under existing law, the court is required, whenever a defendant is defendant is returned to the committing court because the defendant has not recovered mental competence, to order the conservatorship investigator of the county of commitment of the defendant to initiate conservatorship proceedings for the defendant whenever it appears to the court that the defendant is gravely disabled, as defined. Specifies that gravely disabled to mean that the person meets the definition in Welfare and Institutions Code section 5008, subdivision (h)(1)(A) (Lanterman-Petris-Short conservatorship) or subdivision (h)(1)(B) (Murphy conservatorship). (Pen. Code, § 1370, subd. (c)(3).)

"Gravely disabled" is defined to mean either of the following:

- 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. (Welf. & Inst. Code, § 5008, subd. (h)(1)(A).)

- 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)(B).)

This bill clarifies that the court can order an IST defendant whose mental competence has not been restored, to the conservatorship investigator of the county of commitment of the defendant to initiate conservatorship proceedings for the defendant whenever it appears to the court that the defendant is gravely disabled, *under either* Welfare and Institutions Code section 5008, subdivision (h)(1)(A), subdivision (h)(1)(B), *or both*.

5) **Firearm License Interview Requirement:** Existing law outlines the criteria by which an applicant for a firearms license will be deemed to be a disqualified person and cannot receive or renew a license. (Pen. Code, § 26202, subd. (a).) Under current law, the licensing authority must conduct an investigation that meets specified requirements in determining whether an applicant is a disqualified person and cannot receive or renew a license. (Pen. Code, § 26202, subd. (b).) Among the requirements is one mandating an in-person or a virtual interview of the applicant for certain firearm licenses.

   This bill strikes the qualifying language in Penal Code section 26202, subdivision (b)(1), so that all firearm license applications require an in-person or a virtual interview of the applicant.

6) **Definition of Foreign Corporation:** Penal Code section 1524.2 defines "foreign corporation" as "any corporation that is qualified to do business in this state pursuant to Section 2105 of the Corporations Code." Section 1524.2 provides that a person or entity has been "properly served" if "a search warrant has been delivered by hand, or in a manner reasonably allowing for proof of delivery if delivered by United States mail, overnight delivery service, or facsimile to a person or entity listed in Section 2110 of the Corporations Code, or any other means specified by the recipient of the search warrant, including email or submission via an internet web portal that the recipient has designated for the purpose of service of process."

   This bill amends the definition of "foreign corporation" in Section 1524.2 to include "or any corporation, excluding a California corporation, that transacts intrastate business." It also amends the definition of "properly served" to include "any means reasonably calculated to give actual notice" in the case that "the recipient is not qualified to do business in this state pursuant to Section 2105 of the Corporations Code."

7) **County Service Agreements Pertaining to In-Custody Deaths:** Government Code section 27491.56 prohibits, in any county where the offices of the sheriff and the coroner are combined, the sheriff-coroner from determining the circumstances, manner, and cause of death for any in-custody death. The sheriff-coroner is required to do one or both of the following instead:

   - Contract with one or more counties that have a coroner's office that operates independently from the office of the sheriff, or that have established an office of medical examiner, to determine the circumstances, manner, and cause of death.

Requires the contracted coroners or medical examiners to operate independently from the office of the sheriff-coroner in conducting the medical examination process, including, but not limited to, exercising professional judgment to make determinations of the circumstances, manner, and cause of death.

- Contract with one or more private third-party medical examination providers that are separate and independent from the office of the sheriff-coroner and that meet the physician qualification requirements to determine the circumstances, manner, and cause of death. Requires a private third-party medical examination provider to operate independently from the office of the sheriff-coroner in conducting the medical examination process, including, but not limited to, exercising professional judgment to make determinations of the circumstances, manner, and cause of death.

Existing law requires the county board of supervisors, in any county in which the offices of the sheriff and the coroner are combined, to annually select and enter into a service agreement or service agreements with medical examiners or independent coroner offices from other counties, or with one or more private third-party medical examination providers, or with any combination of those medical examiners, independent coroner offices, or private third-party medical examination providers. (Gov. Code, § 27491.56, subd. (d)(1).)

This bill strikes the word "annually" from the above provision so that a county is not required to enter a service agreement annually which would allow a county to enter into long-term service agreements.

8) **Court Reporting of Annual Debt Collection Activities:** This bill amends Penal Code Section 1463.007 and Government Code Section 68514. Both of these sections handle legislative reporting from the courts on annual court-ordered debt collection activities and amounts. The proposed amendments would allow courts to have a more uniform understanding of reporting requirements and would align the requirements with current practices and authorities. For example, courts can no longer suspend driver's license for failure to pay and that is currently listed as an allowable collections activity. The proposed change would also allow courts to report based on collection entity rather than by activity as many entities use multiple activities and it's difficult to assign success to a specific activity, creating confusion and unclear reporting.

9) **Related Legislation**: None

10) **Prior Legislation**:

a) SB 857 (Committee on Public Safety), Chapter 271, Statutes of 2025, made technical and corrective changes, as well as non-controversial substantive changes, to various code section relating to criminal justice laws.

b) SB 1518 (Committee on Public Safety), Chapter 495, Statutes of 2024, made technical and corrective changes, as well as non-controversial substantive changes, to various code section relating to criminal justice laws.

c) SB 883 (Committee on Public Safety), Chapter 311, Statutes of 2023, made technical and corrective changes, as well as non-controversial substantive changes, to various code section relating to criminal justice laws.

d) SB 1493 (Committee on Public Safety), Chapter 197, Statutes of 2022, made technical and corrective changes, as well as non-controversial substantive changes, to various code section relating to criminal justice laws.

e) SB 827 (Committee on Public Safety), Chapter 434, Statutes of 2021, made technical and corrective changes, as well as non-controversial substantive changes, to various code section relating to criminal justice laws.

f) SB 781 (Committee on Public Safety), Chapter 256, Statutes of 2019, made technical and corrective changes, as well as non-controversial substantive changes, to various code section relating to criminal justice laws.

g) SB 1494 (Committee on Public Safety), Chapter 423, Statutes of 2018, made technical and corrective changes, as well as non-controversial substantive changes, to various code section relating to criminal justice laws.

h) SB 811 (Committee on Public Safety), Chapter 269, Statutes of 2017, made technical and corrective changes, as well as non-controversial substantive changes, to various code section relating to criminal justice laws.

i) SB 1474 (Committee on Public Safety), Chapter 59, Statutes of 2016, made technical and corrective changes, as well as non-controversial substantive changes, to various code section relating to criminal justice laws.

j) SB 795 (Committee on Public Safety), Chapter 499, Statutes of 2015, made technical and corrective changes, as well as non-controversial substantive changes, to various code section relating to criminal justice laws.

k) SB 1461 (Committee on Public Safety), Chapter 54, Statutes of 2014, made technical and corrective changes, as well as non-controversial substantive changes, to various code section relating to criminal justice laws.

l) SB 514 (Committee on Public Safety), Chapter 59, Statutes of 2013, made technical and corrective changes, as well as non-controversial substantive changes, to various code section relating to criminal justice laws.

REGISTERED SUPPORT / OPPOSITION:

Support

None submitted.

Opposition

None submitted.

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

Date of Hearing: June 30, 2026
Chief Counsel: Andrew Ironside

ASSEMBLY COMMITTEE ON PUBLIC SAFETY
Nick Schultz, Chair

SB 1446 (Committee on Public Safety) – As Amended April 27, 2026

SUMMARY: Establishes procedures for en banc review of parole decisions by the Board of Parole Hearings (BPH), and extends the authority to refer individuals incarcerated in the custody of the California Department of Corrections and Rehabilitation (CDCR) for a sexually violent predator (SVP) evaluation to the Executive Officer of BPH. Specifically, **this bill**:

1) Provides the decision and the vote of each commissioner for an en banc review to be a public record.

2) Requires BPH, when reviewing a parole decision referred en banc by the Governor or by the BPH chief counsel, as specified, to do all of the following

   a) Review the record of the hearing unless there is new information that when corrected or considered by the board has a substantial likelihood of resulting in a different decision.

   b) Defer to the hearing panel's factual findings and credibility determinations.

   c) Decide if the hearing panel's decision is supported by substantial evidence.

   d) Vote to do any of the following:

      i) Affirm the proposed decision.

      ii) Order a new hearing.

      iii) Rescind the proposed decision.

      iv) Set the parole decision for a rescission hearing based on new information.

   e) Render a public statement of decision that shall include the vote of the commissioners.

3) Extends to the Executive Officer of BPH the authority to refer an individual, at least six months prior to that individual's scheduled release date, for an evaluation to determine if the person has a diagnosed mental health disorder so that the person is likely to engage in acts of sexual violence without appropriate treatment and custody.

4) Provides that the Secretary of CDCR or the Executive Officer of BPH shall refer an incarcerated individual for an evaluation pursuant to the above paragraph if the person is serving a determinate sentence, and may do so if the individual is serving a indeterminate sentence.

5) Adds that the referral by the Secretary of CDCR or the Executive Officer of BPH for the evaluation may be made less than six months prior to the person's scheduled release date if the incarcerated person will be scheduled for a parole hearing in the next six months.

EXISTING LAW:

1) Requires BPH to meet with each incarcerated person during the sixth year prior to the person's minimum eligible parole date (MEPD) for the purposes of reviewing and documenting the person's activities and conduct pertinent to parole eligibility. Requires that the BPH provide the incarcerated person with information about the parole hearing process, legal factors relevant to their suitability or unsuitability for parole, and individualized recommendations for the person regarding their work assignments, rehabilitative programs, and institutional behavior during the consultation. (Pen. Code, § 3041, subd. (a)(1).)

2) Provides that one year prior to the incarcerated person's MEPD, a panel of two or more commissioners or deputy commissioners must meet with the person and shall normally grant parole. (Pen. Code, § 3041, subd. (a)(2).)

3) Requires, in the event of a tie vote, the matter to be referred for an en banc review of the record that was before the panel that rendered the tie vote. Requires the board to vote to either grant or deny parole and render a statement of decision upon en banc review. (Pen. Code, § 3041, subd. (a)(3).)

4) Requires that an incarcerated person be released upon a grant of parole, subject to all applicable review periods. Prohibits the release of an incarcerated person who has not reached their MEPD unless the person is eligible for earlier release pursuant to their youth offender parole eligibility date or elderly parole eligible date. (Pen. Code, § 3041, subd. (a)(4).)

5) Requires the panel or board, sitting en banc, to grant parole to an incarcerated person unless it determines that the gravity of the current convicted offense or offenses, or the timing and gravity of current or past convicted offense or offenses, is such that consideration of the public safety requires a more lengthy period of incarceration for this individual. (Pen. Code, § 3041, subd. (b)(1).)

6) Requires that any decision of the parole panel finding an incarcerated individual suitable for parole becomes final within 120 days of the date of the hearing. Authorizes the board to review the panel's decision during that period. Requires the panel's decision to become final pursuant unless the board finds that the panel made an error of law, or that the panel's decision was based on an error of fact, or that new information should be presented to the board, any of which when corrected or considered by the board has a substantial likelihood of resulting in a substantially different decision upon a rehearing. Requires the board to consult with the commissioners who conducted the parole consideration hearing in making this determination. (Pen. Code, § 3041, subd. (b)(2).)

7) Prohibits a decision of a panel from being disapproved and referred for rehearing except by a majority vote of the board, sitting en banc, following a public meeting. (Pen. Code, § 3041,

subd. (b)(3).)

8) Provides that an en banc review by the board means a review conducted by a majority of commissioners holding office on the date the matter is heard by the board. (Pen. Code, § 3041, subd. (e).)

9) Requires that an en banc review be conducted in compliance with the following:

   a) The commissioners conducting the review must consider the entire record of the hearing that resulted in the tie vote.

   b) The review must be limited to the record of the hearing. Requires the record to consist of the transcript or audiotape of the hearing, written or electronically recorded statements actually considered by the panel that produced the tie vote, and any other material actually considered by the panel. Prohibits new evidence or comments from being considered in the en banc proceeding.

   c) The board must separately state reasons for its decision to grant or deny parole.

   d) A commissioner who was involved in the tie vote must be recused from consideration of the matter in the en banc review. (Pen. Code, § 3041, subd. (e).)

10) Authorizes the Governor, any time before an incarcerated person's release, to request review of a decision by a parole authority concerning the grant or denial of parole to any inmate in a state prison. Requires the Governor to state the reason or reasons for the request, and whether the request is based on a public safety concern, a concern that the gravity of current or past convicted offenses may have been given inadequate consideration, or on other factors. (Pen. Code, § 3041.1, subd. (a).)

11) Requires the request, if one has been made, to be reviewed by a majority of commissioners specifically appointed to hear adult parole matters and who are holding office at the time. Requires, in case of a review, a vote in favor of parole by a majority of the commissioners reviewing the request to be required to grant parole to any incarcerated person. (Pen. Code, § 3041.1, subd. (b).)

12) Provides for the civil commitment for psychiatric and psychological treatment of an individual incarcerated in state prison found to be a sexually violent predator (SVP) after the person has served his or her prison commitment. (Welf. & Inst. Code, § 6600, et seq.)

13) Defines a "sexually violent predator" as "a person who has been convicted of a sexually violent offense against one or more victims and who has a diagnosed mental disorder that makes the person a danger to the health and safety of others in that it is likely that he or she will engage in sexually violent criminal behavior." (Welf. & Inst. Code, § 6600, subd. (a)(1).)

14) Requires the Secretary of CDCR, when they have determined that an individual who is in custody (who is either serving a determinate prison sentence or whose parole has been revoked, and who is not in custody for the commission of a new offense committed while the individual was serving an indeterminate term in a state hospital as an SVP) may be an SVP,

to refer the person for evaluation at least six months prior to that individual's scheduled release date for release from prison. Allows the referral to be made less than six months prior to the person's scheduled release date if the person was received by CDCR with less than nine months of their sentence to serve, or if the person's release date is modified by judicial or administrative action. (Welf. & Inst. Code, § 6601, subd. (a)(1).)

15) Permits a person committed as an SVP to be held for an indeterminate term upon commitment. (Welf. & Inst. Code, §§ 6604 & 6604.1.)

16) Requires that a person found to have been an SVP and committed to the Department of State Hospitals (DSH) have a current examination on their mental condition made at least yearly. Requires the report to include consideration of whether the committed person currently meets the definition of an SVP and whether conditional release to a less restrictive alternative or an unconditional discharge is in the best interest of the person and conditions can be imposed that would adequately protect the community. (Welf. & Inst. Code, § 6604.9, subds. (a) & (b).)

17) Outlines a process for the conditional release to a less restrictive alternative or for an unconditional discharge, as specified. (Welf. & Inst. Code, §§ 6604.9, 6607, 6608, 6608.5, 6608.6, 6609.1; Pen. Code, § 1605, subd. (a).)

FISCAL EFFECT: Unknown.

COMMENTS:

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

2) **Author's Statement**: According to the author, "For the public, the release of someone back into the community after serving a significant amount of time in custody for the conviction of serious crimes can be confusing and unsettling. That's why California law—similar to other states—does not treat parole suitability decisions lightly.

   "To be suitable, an initial parole hearing panel consisting of two commissioners must evaluate and agree whether a person will pose an unreasonable risk of danger to society if released from prison. Even after applying the law faithfully and evaluating all of the facts and forensic interviews, parole commissioners' decisions aren't final. They are subject to internal review, the Governor's review, and ultimately, a review by other commissioners.

   "These parole decisions aren't easy and require several things to be balanced: due process rights, the public safety risk presented by the individual, victims, and the public's interest. In order to honor prior federal court decisions that required California to implement measures to reduce prison overcrowding and establish additional parole mechanisms while still providing the flexibility for the State to balance those various interests – paramount of them being public safety – SB 1446 provides additional discretion for en banc review while still ensuring those decisions are transparent in order to protect the general public."

3) **Parole Suitability**: Incarcerated individuals who are indeterminately sentenced must be granted parole by the BPH in order to be released from prison. The Penal Code provides that the parole board "shall grant parole to an inmate unless it determines that the gravity of the

current convicted offense or offenses, or the timing and gravity of current or past convicted offense or offenses, is such that consideration of the public safety requires a more lengthy period of incarceration for this individual." (Pen. Code, § 3041, subd. (b).) The fundamental consideration when making a determination about an individual's suitability for parole is whether the individual currently poses an unreasonable risk of danger to society if released from prison. (*In re Shaputis* (2008) 44 Cal.4th 1241.) The decision whether to grant parole is an inherently subjective determination. (*In re Rosenkrantz* (2002) 29 Cal.4th 616, 655.)

In deciding whether to grant parole, the BPH must consider all relevant and reliable information available. (Cal. Code Regs., tit. 15, § 2281, subd. (b).) Factors the BPH must consider include the nature of the commitment offense, including the circumstances of the person's social history; past and present mental state; past criminal history, including involvement in other criminal misconduct which is reliably documented; the base and other commitment offenses, including behavior before, during and after the crime; past and present attitude toward the crime; any conditions of treatment or control, including the use of special conditions under which the individual may safely be released to the community; and any other information which bears on the individual's suitability for release. (Cal. Code Regs., tit. 15, §§ 2281, subd. (b).) The regulations further state that "[c]ircumstances which taken alone may not firmly establish unsuitability for parole may contribute to a pattern which results in a finding of unsuitability." (*Ibid.*)

Although the parole board is required to consider the circumstances of the offense, the California Supreme Court has held that the parole board may not rely solely on the commitment offense when deciding to grant parole unless the circumstances of the offense "continue to be predictive of current dangerousness." (*In re Lawrence* (2008) 44 Cal.4th 1181, 1221.) The parole board is prohibited from requiring an admission of guilt to any crime for which an incarcerated person was committed to CDCR when considering whether to grant an inmate parole. (Pen. Code, § 5011, subd. (b).) However, "an implausible denial of guilt may support a finding of current dangerousness, without in any sense requiring the inmate to admit guilt as a condition of parole….it is not the failure to admit guilt that reflects a lack of insight, but the fact that the denial is factually unsupported or otherwise lacking in credibility." (*In re Shaputis* (2011) 53 Cal.4th 192, 216.) Although the term "insight" is not explicitly included in the regulations, the regulations "direct the Board to consider the inmate's 'past and present attitude toward the crime' and 'the presence of remorse,' expressly including indications that the inmate 'understands the nature and magnitude of the offense'…. fit[ting] comfortably within the descriptive category of 'insight.'" (*Id.* at 218 (citations omitted).)

Additional guidance for making parole suitability determinations is provided in the regulations which list circumstances tending to show suitability and those tending to show unsuitability. The following circumstances tend to show unsuitability for release include that the person committed the offense in an especially heinous, atrocious or cruel manner; the person on previous occasions inflicted or attempted to inflict serious injury on a victim, particularly if the incarcerated person demonstrated serious assaultive behavior at an early age; the person has a history of unstable or tumultuous relationships with others; the person has previously sexually assaulted another in a manner calculated to inflict unusual pain or fear upon the victim; the person has a lengthy history of severe mental problems related to the offense; and the person has engaged in serious misconduct in prison or jail. (Cal. Code of Regs., tit. 15, § 2281, subd. (c).)

Circumstances tending to show suitability include that the person does not have a record of assaulting others as a juvenile or committing crimes with a potential of personal harm to victims; the person has experienced reasonably stable relationships with others; the person performed acts which tend to indicate the presence of remorse, such as attempting to repair the damage, seeking help for or relieving suffering of the victim, or indicating that he understands the nature and magnitude of the offense; the person committed his or her crime as the result of significant stress in his or her life, especially if the stress has built over a long period of time; at the time of the commission of the crime, the person suffered from Battered Woman Syndrome, as defined, and it appears the criminal behavior was the result of that victimization; the person lacks any significant history of violent crime; the person's present age reduces the probability of recidivism; the person has made realistic plans for release or has developed marketable skills that can be put to use upon release; institutional activities indicate an enhanced ability to function within the law upon release. (Cal. Code of Regs., tit. 15, § 2281, subd. (d).)

The circumstances which tend to show suitability and unsuitability for parole are set forth as general guidelines, and the importance attached to any circumstance or combination of circumstances in a particular case is left to the judgment of the panel. (Cal. Code of Regs., tit. 15, § 2281, subds. (c) & (d).)

4) **En Banc Review of a BPH Decision**: Cases are referred for en banc review when a parole suitability hearing ends with a tie vote regarding whether to grant the person parole (occurs when there is a two-person hearing panel), when the Chief Counsel of BPH refers the case, and when the Governor requests review of a parole decision. (Pen. Code, §§ 3041, subds. (a), (b), (e); 3041.1.) Under Penal Code section 3041, subdivision (a)(5), a member of the hearing panel may also refer a case for en banc review. The Board meets monthly over a few days at its headquarters in Sacramento to manage the Board's business, including reviewing cases that are referred for en banc review. BPH's Parole Hearing Process Handbook describes the monthly executive meetings as follows:

> The Board holds an executive board meeting each month, which is open to the public. The meetings are conducted over two or more days. Members of the public may attend in person, by video, or by phone, as indicated on the meeting agenda. The meeting agenda, including all the decisions or "cases" that will be considered at the meeting, is posted on the Board's website at least 10 calendar days before the date of the meeting. For all cases listed on the agenda, the Board notifies the incarcerated person, their attorney, the prosecutor, and any registered victims and victims' family members. At the monthly executive board meeting, panels of commissioners hear public comment on the cases. Comments may be submitted in writing to the Board before the meeting. Those who want to speak during the meeting may attend the meeting and provide their comments. Comments are generally limited to two minutes per speaker. Once public comments have been received, the Board goes into closed session to deliberate and vote on each case.[1]

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[1] BPH, The California Parole Hearing Process Handbook (Mar. 8, 2024), p. 46 <https://www.cdcr.ca.gov/bph/wp-content/uploads/sites/161/2025/03/CA-Parole-Hearing-Process-Handbook-For-Publication-03-08-24-2.pdf> [as of June 25, 2026] [internal footnotes omitted].

The Board consists of 21 parole commissioners. (Gov. Code, § 12838.4.) Penal Code section 3041, subdivision (e), provides that an en banc review by the board means "a review conducted by a majority of commissioners holding office on the date the matter is heard by the board." Section 3041 requires an en banc review to comply with the following: the commissioners conducting the review must consider the entire record of the hearing that resulted in the tie vote; the review must be limited to the record of the hearing; the board must separately state reasons for its decision to grant or deny parole; and a commissioner who was involved in the tie vote must be recused from consideration of the matter in the en banc review.

The agenda for the monthly executive meeting typically divides agenda items to be voted on between two groups of commissioners with each group consisting of a majority of commissioners (i.e., more than half of the total number of commissioners but fewer than the entire board). [2]

5) **Sexually Violent Predator Act (SVPA):** Enacted in 1996, the SVPA authorizes an involuntary civil commitment of any person "who has been convicted of a sexually violent offense … and who has a diagnosed mental disorder that makes the person a danger to the health and safety of others in that it is likely that he or she will engage in sexually violent criminal behavior." (Welf. & Inst. Code, § 6601, subd. (a).) The SVPA was designed to accomplish the dual goals of protecting the public, by confining violent sexual predators likely to reoffend, and providing treatment to those offenders. "Those committed pursuant to the SVPA are to be treated not as criminals, but as sick persons. They are to receive treatment for their disorders and must be released when they no longer constitute a threat to society." (*People v. Superior Court (Karsai)* (2013) 213 Cal.App.4th 774, 783, citing Welf. & Inst. Code, § 6250.)

Civil commitment is not a prison sentence. Once a person has been deemed no longer a threat to public safety, they must, as a matter of law, be released from custody. Involuntary commitment under the SVPA only begins after a person has completed their prison sentence. Originally, the SVP laws provided for an initial commitment of two years and then a review every two years thereafter. However, effective September 20, 2006, the law now provides for indeterminate commitments for persons found to be sexually violent predators. (Welf. & Inst. Code § 6604.)

An SVP is a person convicted of specified sex offenses against at least one person and who has a diagnosed mental disorder that makes the person a danger to the health and safety of others in that it is likely that he or she will engage in sexually violent criminal behavior. (Welf. & Inst. Code, § 6600, subd. (a)(1).) Welfare and Institutions Code, section 6600 further defines a sexually violent predator as someone who suffered the following: a prior or current conviction that resulted in a determinate prison sentence for a sexually violent offense; conviction for a sexually violent offense that was committed prior to July 1, 1977, and that resulted in an indeterminate prison sentence; a prior conviction in another jurisdiction for an offense that includes all of the elements of a sexually violent offense; a conviction for an offense under a predecessor statute that includes all of the elements of a

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[2] See BPH, *Executive Board Meeting, April 2026 Agenda*, pp. 4, 11-12 <https://www.cdcr.ca.gov/bph/wp-content/uploads/sites/161/2026/04/April-2026-Agenda-FINAL.pdf> [as of June 25, 2026].

sexually violent offense; a prior conviction for which the inmate received a grant of probation for a sexually violent offense; a prior finding of not guilty by reason of insanity for a sexually violent offense; a conviction resulting in a finding that the person was a mentally disordered sex offender; a prior conviction for a sexually violent offense for which the person was committed to the Division of Juvenile Facilities, Department of Corrections and Rehabilitation, as specified; or, a prior conviction for a sexually violent offense that resulted in an indeterminate prison sentence. (Welf. & Inst. Code, § 6600, subd. (a)(1)(A-I).)

A sexually violent offense means any of the following crimes when committed by force, violence, duress, menace, fear of immediate and unlawful bodily injury on the victim or another person, or threatening to retaliate in the future against the victim or any other person, and that are committed on, before, or after the effective date of the SVPA and resulted in a conviction or a finding of not guilty by reason of insanity: (i) a felony violation of rape, (ii) former provision of spousal rape, (iii) aiding abetting rape or sexual penetration, (iv) aggravated sexual assault of a child, (v) sodomy, (vi) forcible oral copulation, (vii) child molestation, (viii) continuous sexual abuse of a child, or (ix) sexual penetration, or (x) former provision on child molest, or any felony violation of (xi) kidnapping, (xii) kidnapping with intent to commit robbery or rape, or (xiii) assault with intent to commit rape, (xiv) former provision of spousal rape, (xv) aiding and abetting rape, (xvi) sodomy, (xvii) forcible oral copulation, (xviii) child molest, or (xix) sexual penetration. (Welf. & Inst. Code, § 6600, subd. (b).)

When the CDCR determines that an inmate "may be a sexually violent predator," the CDCR Secretary refers the inmate to the DSH for a thorough evaluation. (*Hubbart v. Superior Court* (1999) 19 Cal.4th 1138, 1145; Welf. & Inst., § 6601, subd. (b).) A "diagnosed mental disorder" for purposes of determining whether someone is an SVP means a "congenital or acquired condition affecting the emotional or volitional capacity that predisposes the person to the commission of criminal sexual acts in a degree constituting the person a menace to the health and safety of others." (Welf. & Inst. Code, § 6600, subd. (c).)

An evaluation "must be conducted by at least two practicing psychiatrists or psychologists in accordance with a standardized assessment protocol[.]" (Welf. & Inst. Code, § 6601, subd. (c)-(d).) If the two evaluators agree the inmate is likely to reoffend without treatment or custody due to their mental disorder, the Director of DSH must request a petition for commitment pursuant to the Welfare and Institutions Code section 6602 to the county in which the inmate was last convicted. (Welf. & Inst. Code, § 6601, subd. (d).) Thereafter, the county district attorney will file a petition for civil commitment. Due process requires any deprivation of liberty by the state to first provide notice and a meaningful opportunity to be heard.

Accordingly, a court then reviews the petition and determines whether there is probable cause to believe the inmate "is likely to engage in sexually violent predatory criminal behavior upon their release. If the court or jury determines that the person is a sexually violent predator, the person [is] committed for an indeterminate term" to a state mental hospital "for appropriate treatment and confinement." (Welf. & Inst. Code, § 6604.)

The burden then shifts to the "offender seeking his or her release from an SVPA commitment" to prove he or she is no longer a significant risk to society.[3]

If the Director of DSH determines that the inmate's diagnosed mental disorder has so changed that the inmate is not likely to commit acts of predatory sexual violence while under supervision and treatment in the community, the Director will forward a report and recommendation for conditional release. If the court at the hearing determines that the SVP would not be a danger to others due to his or her diagnosed mental disorder while under supervision and treatment in the community, the court will order the person placed with an appropriate forensic conditional release program operated by the state for one year, a substantial portion of which is required to include outpatient supervision and treatment. (Welf. & Inst. Code, § 6608, subd. (f).)

After a judicial determination that a person would not be a danger to the health and safety of others (i.e., in that it is not likely that the person will engage in sexually violent criminal behavior due to the person's diagnosed mental disorder while under supervision and treatment in the community), they will be placed in their pre-incarceration county of domicile, unless the court finds that extraordinary circumstances require placement outside the county domicile. (Welf. & Inst. Code, § 6608.5, subd. (a); see Welf. & Inst. Code, § 6608.5, subd. (b).)

6) **Argument in Support**: According to the *Riverside County District Attorney's Office*, "This measure addresses critical gaps in current procedures governing lifer hearings and SVP referrals that directly impact community protection and confidence in the criminal justice system.

"SB 1446 would require the Board of Parole Hearings to make public the individual votes of commissioners during en banc reviews. Transparency in these proceedings is necessary to maintain public trust and ensure accountability in decisions that may result in the release of individuals convicted of serious and violent offenses. By opening these votes to public scrutiny, SB 1446 strengthens the integrity of the parole process.

"Additionally, the bill corrects longstanding inconsistencies within the SVP referral process. Current law requires the Department of Corrections and Rehabilitation to refer only determinately sentenced inmates for evaluation, leaving indeterminately sentenced sex offenders—often those convicted of more serious conduct—ineligible for assessment. With evolving parole eligibility rules, including elder parole considerations, many such individuals are now approaching release despite never being screened. SB 1446 closes this gap by expanding referral authority to include indeterminately sentenced inmates and permitting referrals even when less than six months remain before a scheduled release.

"These changes restore logical application of the law, align evaluation standards with modern parole realities, and ensure that individuals who pose a significant risk of reoffending are

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[3] Felando (2012) *California's Sexually Violent Predator Act and the Dangerous Patient Exception*, 40 W. St. U. L.Rev. 73, 76; Note (2014) *Examining the Conditions of Confinement for Civil Detainees under California's Sexually Violent Predators Act*, 68 Hastings L.J. 1441, 1444-1446.

properly assessed before returning to the community."

7) **Argument in Opposition**: According to *UnCommon Law*, "For decades, the Legislature has played an important role in strengthening procedural protections within this system in recognition of the significant liberty interests intrinsic to parole. SB 1446 alarmingly departs from that tradition by rolling back established safeguards, contrary to both legislative precedent and more than fifty years of California Supreme Court and Court of Appeal decisions recognizing the due process rights of parole grantees and candidates.

"SB 1446 is Unconstitutional and Violates Due Process Requirements

"SB 1446 is unconstitutional because it authorizes the Board to withdraw a parole grant without first conducting a rescission hearing (See SB 1446 (2025–2026 Reg. Sess.), proposed Pen. Code, § 3041, subd. (e)(2)(D).) This change would violate the Due Process Clause and over fifty years of precedent set by the California Supreme Court and Courts of Appeal recognizing that a person who has been granted parole possesses a protected liberty interest such that the parole grant cannot be revoked without a rescission hearing. In *In re Prewitt* (1972) 8 Cal.3d 470, the Supreme Court held that the Board may not rescind a parole grant without first holding a rescission hearing where the parole grantee has, among other rights, the right "to be heard in person and to present witnesses and documentary evidence." (8 Cal.3d at 473, fn. 5.)

"SB 1446 would allow the Board to rescind a parole grant after only *en banc* review, without also holding a rescission hearing. Yet the Board's *en banc* review procedures at Executive Board Meetings do not satisfy the due process rights enumerated by *Prewitt*. Parole grantees are prohibited from attending Executive Board Meetings, so these meetings cannot satisfy the requirement that parole grantees have an "opportunity to be heard in person." (*Prewitt*, *supra*, 8 Cal.3d at 473, fn. 5.) Additionally, parole grantees cannot call or question witnesses at Executive Board Meetings. Although members of the public, including a parole candidate's attorney, may provide brief statements at the meetings, those public comments are not a substitute for a *parole grantee's* right to personally present and question witnesses in defense of their parole grant. Thus, the existence of the Board's Executive Board Meeting and *en banc* process will not remedy the unconstitutionality of SB 1446's amendments.

"In addition to being facially unconstitutional, this bill is particularly problematic because it codifies a two-track system of due process based on the reason one's parole grant was referred for *en banc* review, without any legal basis for creating this distinction. Under SB 1446, parole grantees whose grants were referred for *en banc* review based on "new information" would be afforded rescission hearings, while parole grantees referred for *en banc* review for any other reason—such as a potentially improvident parole grant—would not. The latter group could have their parole grants reversed without the constitutionally required due process safeguards. The courts have never made such a distinction about who is entitled to a rescission hearing. They have been clear that all parole grantees, regardless of the reason one's grant is referred for additional review, possess the same due process rights. (See, e.g., *In re Caswell* (2001) 92 Cal.App.4th 1017, 1025–26 [rescission hearing required despite no new information]; *In re Johnson* (1995) 35 Cal.App.4th 160, 171–72 [claim of no new information did not relieve Board of its duty to hold full rescission hearing].) SB 1446 creates an unconstitutional, unjust, and arbitrary two-track system of due process that unjustifiably provides required due process procedures to one group while denying them to

another.

"As a result of depriving parole candidates of the aforementioned due process rights, SB 1446's passage would invite significant litigation challenging its constitutionality and create uncertainty regarding the validity of rescission decisions made pursuant to its provisions. The roughly 1,000 parole candidates who are granted parole each year would all be in jeopardy of having their grants unconstitutionally withdrawn under SB 1446. UnCommon Law has filed multiple habeas petitions challenging both the Board's failure to provide rescission hearings and its specific rescission hearing procedures. (See e.g., *In re Dewberry*, Case No. HC71769A-1, Alameda County Superior Court [failure to provide rescission hearings]; *In re Hoover*, Case No. A173677, First District Court of Appeal [failure to provide rescission hearings]; *In re Osborne*, Case No. 24CJHC00132-01, Los Angeles County Superior Court [failure to allow parole grantees to testify at rescission hearings].) SB 1446 would undoubtedly increase litigation by adding facially unconstitutional changes to Penal Code section 3041. Additionally, allowing the Board to rescind parole grants without holding a rescission hearing raises ex post facto concerns because it creates a significant risk that the elimination of due process rights will retroactively prolong a parole candidate's incarceration.

"**SB 1446 Creates a Confusing and Unfair New Standard for En Banc Review**

"SB 1446 also creates confusion and inconsistency by requiring the Board, during *en banc* review, to determine whether a hearing panel's decision is "supported by substantial evidence." This standard does not govern parole suitability decisions and is not otherwise used in the parole hearing process. Adding this new "substantial evidence" standard fundamentally changes the scope of *en banc* review from focusing on ensuring factual and legal integrity free from errors, to making a new evidentiary determination that risks duplicating and potentially contradicting a suitability analysis already conducted in the original hearing.

"The introduction of this new standard also raises serious ex post facto concerns. By creating a more onerous review standard than existed at the time of the underlying offense, SB 1446 risks prolonging incarceration based on retroactive changes that increase the likelihood a parole grant will be withdrawn.

"SB 1446 also simultaneously requires the Board during *en banc* review to defer to the original panel's factual and credibility determinations. These two directives—one to defer to the hearing panel's findings and the other to make a new evidentiary determination—are confusing and difficult to reconcile. This would encourage reweighing of evidence that has already been thoroughly considered, create inconsistent and conflicting decisions by hearing and *en banc* panels, and generate uncertainty about the appropriate scope of *en banc* review. If aiming to strengthen oversight in the *en banc* process, an "abuse of discretion" standard would achieve this goal more clearly while focusing review appropriately on whether the hearing panel acted reasonably in regards to public safety and within its lawful authority. As the Board's regulations state, "The purpose of the decision review process is to assure complete, accurate, consistent and uniform decisions and the furtherance of public safety." (Cal. Code Regs., tit. 15, § 2042.) An "abuse of discretion" standard best adheres to this purpose.

"Finally, SB 1446 would create an unfair and illogical disparity between review of parole denials and review of parole grants. Courts reviewing parole denials apply the highly deferential "some evidence" standard, under which a parole denial will generally be upheld if the court finds even a small modicum of evidence supporting the Board's finding of current dangerousness. Because *en banc* review is used primarily to review parole grants, while parole denials are generally reviewed through habeas petitions in court, SB 1446 would subject parole grants to a substantially more searching level of review than parole denials. The practical effect is an asymmetrical review system in which denials are rarely overturned, while parole grants face heightened scrutiny and a significantly higher likelihood of reversal. This asymmetry is unfair, lacks principled rationale, and appears to be designed primarily to advance the political objective of more easily reversing controversial parole grants.

"Making Individual Commissioner *En Banc* Votes Public Would Compromise the Independence of the Board

"The *en banc* process is intended as a safeguard to ensure parole decisions are legally and factually sound. When the Board or the Governor identify an error or significant new information that could materially impact a parole decision, they refer the case for an "en banc" review, which is a second look by the full Board to determine whether the hearing decision holds up against those identified issues. This process works best when commissioners are given the independence to review parole decisions without fear of political backlash.

"Making individual commissioner votes in *en banc* review public, particularly in highprofile cases, exposes them to public scrutiny and targeted pressure from elected officials, media, and advocacy groups with interests that extend beyond the public safety risk of the incarcerated person being considered. Public disclosure of individual votes risks placing pressure on commissioners to vote defensively in controversial matters rather than according to the evidence and governing law, shifting focus from the legal and public safety merits of a parole decision to the political consequences of voting to uphold it.

"Courts have long recognized the danger of allowing public opinion to influence parole decisions. In *In re Fain*, the court emphasized that "'[i]t is undeniable that public outrage over an imminent parole determination ... has no place in a parole proceeding and is to be given no weight in a parole decision.'" (*In re Fain* (1983) 139 Cal.App.3d 295, 307–308, quoting *In re Trantino Parole Application* (1982) 89 N.J. 347, 446 A.2d 104, 119.) The court further warned that "*[j]ust as the decision-making process of judges must be kept free from fear, so must that of parole board officials*" because "[w]ithout this protection, there is the same danger that the decision-maker might not impartially adjudicate the often difficult cases that come before them," (*Id.* at p. 309, quoting *Sellars v. Procunier* (9th Cir.1981) 641 F.2d 1295, 1303, emphasis added in *Fain*.)

"We have already seen this very danger play out in a recent Senate hearing to confirm Governor appointees to the parole board, where individual parole commissioners were asked to disclose their *en banc* votes in a specific high-profile case. This exchange clearly conveyed the message that an unpopular vote—even if it has legal integrity and upholds public safety—could cost commissioners their appointments and careers.

"Expanding the SVP Program for People with Indeterminate Sentences is Duplicative,

Costly, and Will Not Improve Public Safety

"SB 1446's expansion of the Sexually Violent Predator (SVP) program to apply to people with indeterminate sentences is unnecessary and counterproductive. The parole board already conducts thorough, structured assessments of risk before granting parole, rendering parallel SVP referrals duplicative. For people with sexual convictions, both the parole suitability and supervision processes additionally require the administration of research-validated, actuarial risk instruments specifically for assessing sexual re-offense risk, including the Static-99R and the STABLE 2007. These redundancies are why the SVP program has never thus far applied to people with indeterminate sentences.

"The SVP program is among the most inefficient and costly public safety systems in the state, as SVP proceedings are notoriously resource-intensive, often involving years of litigation, multiple expert evaluations, and extended detention. The Senate estimates this bill will add at least an additional $14 million to $25 million in already exorbitant annual costs, a resource strain that is unjustifiable without any demonstrated public safety benefit."

8) **Related Legislation**:

a) AB 2727 (Nguyen) would change the threshold eligibility for the Elderly Parole Program for specified sex crimes. AB 2727 is pending a hearing in the Senate Public Safety Committee.

b) AB 2232 (Patterson) would require BPH to publish an annual report on the advance parole consideration hearing process. AB 2232 is pending a hearing in the Senate Committee on Public Safety.

c) AB 2342 (Hoover) would have authorized the Governor, subject to a constitutional amendment approved by the voters, to reverse or modify a BPH decision to grant parole to an incarcerated person convicted of a violent felony, as specified, if the inmate is serving an indeterminate term for an offense other than murder or the inmate is serving a determinate term and has not completed that term, but only if the board's decision was the result of Youth Offender Parole or Elderly Parole Program proceedings. The hearing on AB 2342 was canceled at the request of the author.

d) AB 2570 (Lackey) would increase the age at which an incarcerated person becomes eligible for the Elderly Parole Program from 50- to 65-years-old. AB 2570 is pending a hearing in this committee.

e) SB 356 (Jones) would provide that a person sentenced for a one-strike sex offense, as a habitual sex offender, for aggravated sexual assault of a child, or for specified sex acts on a child 10 years of age or younger, is ineligible for elderly parole until the person is 65 years old or older and has served a minimum of 25 years of continuous incarceration on their current sentence. SB 356 is pending hearing in this committee.

f) SB 1278 (Niello) would exclude persons sentenced for a one-strike sex offense, as a habitual sex offender, or for specified sex offenses classified as a "violent" and/or "serious" felony. SB 1278 is pending referral in the Senate Rules Committee.

9) **Prior Legislation**:

a) AB 47 (Nguyen), of the 2025-2026 Legislative Session, would have provided that a person sentenced for a one-strike sex offense or as a habitual sex offender is ineligible for elderly parole until the person is 60 years old or older and has served a minimum of 25 years of continuous incarceration on their current sentence. AB 47 was held in suspense in the Assembly Appropriations Committee.

b) SB 286 (Jones), of the 2025-2026 Legislative Session, would have excluded from Elderly Parole eligibility individuals convicted of murder or specified felony sex offenses, or sentenced as a habitual sex offender or under the One Strike Sex Offense statute. SB 286 was held in suspense in the Senate Appropriations Committee.

c) SB 81 (Skinner), of the 2023-2024 Legislative Session, would have required BPH to notify a parole candidate, upon denial their parole, of their right to petition the court for habeas relief. SB 81 was vetoed by the Governor.

d) SB 445 (Jones), of the 2021-2022 Legislative Session, would have excluded "One Strike" sex offenses from the Elderly Parole Program. SB 445 failed passage in the Senate Public Safety Committee.

e) SB 875 (Skinner), of the 2021-2022 Legislative Session, would have prohibited BPH from considering specified factors when reaching a finding of unsuitability for parole, including, the person's race, ethnicity, national origin, gender, sexual orientation, gender identity, disability, cultural or religious affiliation, and cognitive, speech, or physical impairment. SB 875 was never heard by Senate Public Safety Committee.

f) AB 3234 (Ting), Chapter 334, Statutes of 2020, lowered the minimum age limitation for the Elderly Parole Program to inmates who are 50 years of age and who have served a minimum of 20 years.

g) SB 411 (Jones), of the 2019-2020 Legislative Session, was nearly identical to SB 445 above. SB 411 did not receive a hearing in the Senate Public Safety Committee.

h) AB 1448 (Weber), Chapter 676, Statutes of 2017, codified the Elderly Parole Program, to be administered by the Board of Parole Hearings.

i) SB 224 (Liu), of the 2015-2016 Legislative Session, was substantially similar to AB 1448 above. SB 224 was ordered to the Inactive File on the Senate Floor.

REGISTERED SUPPORT / OPPOSITION:

Support

California District Attorneys Association
Los Angeles County District Attorney's Office
Riverside County District Attorney

Opposition

ACLU California Action
A New Way of Life Re-entry Project
California Public Defenders Association
Californians United for a Responsible Budget
Ella Baker Center for Human Rights
Friends Committee on Legislation of California
From Bars to Brilliance: the Healing Collective
Justice2jobs Coalition
LA Defensa
Legal Services for Prisoners With Children
San Francisco Public Defender
Uncommon Law

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

Date of Hearing: June 30, 2026
Counsel: Dustin Weber

ASSEMBLY COMMITTEE ON PUBLIC SAFETY
Nick Schultz, Chair

SB 493 (Becker) – As Amended June 18, 2026

SUMMARY: Includes "war," as defined, to the covered disasters in the price gouging statute. Specifically, **this bill:**

1) Includes "war" in the statutory definition of "state of emergency."

2) Includes "war" in the statutory definition of "local emergency."

3) Defines "war" as any of the following:

   a) A time during which Congress has declared war and peace has not been formally restored.

   b) A time during which the United States is engaged in active military operations against any foreign power, whether or not war has been formally declared.

   c) A time during which the United States is assisting the United Nations, in actions involving the use of armed force, to maintain or restore international peace and security.

EXISTING LAW:

1) Authorizes the Governor of California to declare a state of emergency under certain circumstances and establishes related duties and powers. (Gov. Code, § 8625 et. seq.)

2) Prohibits, for 30 days following a proclamation or declaration of emergency, the sale, or offer to sell, any consumer food items or goods, goods or services used for emergency cleanup, emergency supplies, medical supplies, home heating oil, building materials, housing, transportation, freight, and storage services, or gasoline or other motor fuels for a price of more than 10% greater than the price charged before the proclamation or declaration of emergency. (Pen. Code, § 396, subd. (b).)

3) Prohibits, for 180 days following a proclamation or declaration of emergency, a contractor from selling or offering to sell any repair or reconstruction services or any services used in emergency cleanup for a price of more than 10% greater than the price charged before the proclamation or declaration of emergency. (Pen. Code, § 396, subd. (c).

4) Prohibits, for 30 days following a proclamation or declaration of emergency, an owner or operator of a hotel or motel from increasing the hotel or motel's regular rates more than 10% than the price charged before the proclamation or declaration of emergency. (Pen. Code, § 396, subd. (d).)

5) Specifies that a violation of the price gouging statute is a misdemeanor punishable by imprisonment in county jail for up to a year, by a fine of not more than $10,000, or both. (Pen. Code, § 396, subd. (h).)

6) Defines "state of emergency" as a natural or manmade emergency resulting from an earthquake, flood, fire, riot, storm, drought, plant or animal infestation or disease, pandemic or epidemic disease outbreak, or other natural or manmade disaster for which a state of emergency has been declared by the President of the United States or the Governor. (Pen. Code, § 396, subd. (j)(1).)

7) Defines "local emergency" as a natural or manmade emergency resulting from an earthquake, flood, fire, riot, storm, drought, plant or animal infestation or disease, pandemic or epidemic disease outbreak, or other natural or manmade disaster for which a local emergency has been declared by an official, board, or other governing body vested with authority to make that declaration in any county, city, or city and county in California. (Pen. Code, § 396, subd. (j)(2).)

FISCAL EFFECT: Unknown

COMMENTS:

1) **Sponsor**: Author-sponsored

2) **Author's Statement**: According to the author, "Californians deserve protection from price gouging," said Senator Becker. "Global conflicts have immediate consequences for California consumers, especially at the gas pump. The Wartime Price Gouging Prevention Act ensures that we have the tools necessary to intervene in an emergency to protect families from opportunistic price increases when international events disrupt markets.

3) **Effect of the Bill**: In an effort to update consumer price protections, SB 493 would include the term "war" in the definition of "state of emergency" and "local emergency" in California's price gouging statute. This bill would define war as 1) a time during which the U.S. Congress has declared war and peace has not been formally restored, 2) a time during which the U.S. is engaged in active military operations against any foreign power, whether or not war has been formally declared, or 3) a time during which the U.S. is assisting the United Nations in actions involving the use of armed force, or to maintain or restore international peace and security.

   The definition of war included in SB 493 is a bit broad. It is important to remember that the breadth, however, takes place within the context of a proclamation or declaration of a state of emergency. What makes the potential breadth problematic is the combination of California consistently having active state of emergency declarations and the US military almost always being involved in active military operations. As of June 20, 2026, California has nearly 60 open states of emergency proclamations dating back to January 2023.[1]

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[1] *Open State of Emergency Proclamations*, California Office of Emergency Services <https://www.caloes.ca.gov/office-of-the-director/policy-administration/legal-affairs/emergency-proclamations/> [as of June 25, 2026].

a) A time during which Congress has declared war and peace has not been formally restored

Various questions arise from SB 493's definition of war and how this definition might be applied in the context of California's price gouging protections. The first qualifying definition of war—a time during which Congress has declared war and peace has not been formally restored—means that a qualifying war would have to include showing both that the U.S. Congress declared war and showing that peace has not been formally restored.

Use of the U.S. military generally requires a source of authority, like a congressional resolution, to send our armed forces into conflict, though arguably the President has constitutional authority to do so independent of Congress under Article II of the U.S. Constitution's Commander in Chief power.[2] A declaration of war by Congress is a formal mechanism authorized exclusively to the federal legislature by the U.S. Constitution. (U.S. Const., art. I, § 8, cl. 11.) Since World War II, Congress's power to declare war has been exercised via joint resolution that the President must sign to become law.[3] Congress has not formally declared war since its last declaration of war during World War II.[4] Other mechanisms have been used to permit U.S. military involvement in global affairs, like authorizations for use of force (AUMFs). In addition to the 11 formal declarations of war issued by Congress, the legislature has also issued approximately 50 AUMFs since the Washington administration.[5] AUMFs can be broader in scope compared to declarations of war. For example, AUMFs may authorize force against a region of countries, rather than a single country.[6]

Under SB 493's first definition, if Congress doesn't formally declare war, then the price gouging statute is not activated. Likewise, the statute does not apply if Congress declares war, but peace has not been formally restored. One concern with this definition is that it is not clear what it means to say, "peace has not been formally restored." Because joint resolutions have the same effect as law, one reasonable interpretation of this phrase is that a formal restoration of peace means legislation has been signed into law that terminates the war declaration. A formal declaration of war and one terminating war, however, have not been passed in nearly 80 years.[7] Moreover, neither the term "peace" nor the phrase "peace has not been formally restored" appear to be defined in California statute. Our Ninth Circuit Court of Appeals, in a case that in part reviewed a jury instruction that defined the term "at peace" for purposes of the federal Neutrality Act, found the district court did not plainly err instructing that at peace "means any time when the United States and another foreign country are not at war with one another or engaged in open and notorious military conflict with one another," adding that "[m]ilitary conflict is open and notorious if it would have been known to an

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[2] Elsea, *Defense Primer: Legal Authorities for the Use of Military Forces* (Dec. 23, 2025) Congressional Research Service <https://www.congress.gov/crs-product/IF10539> [as of June 22, 2026].
[3] *Power to Declare War*, United States House of Representatives < https://history.house.gov/Institution/Origins-Development/War-Powers/>; *Joint resolution of Congress*, Cornell Law School Legal Information Institute <https://www.law.cornell.edu/wex/joint_resolution_of_congress> [as of June 19, 2026].
[4] *Ibid.*
[5] *Supra*, at note 1.
[6] *Ibid.*
[7] *Supra*, at note 2.

ordinary person in the United States who keeps up with world events." (*United States v. Chhun* (9th Cir. 2014) 744 F.3d 1110, 1119-1120.) The court additionally found that countries can be at peace under certain conditions like being "distant and tense, so long as there are no military operations between them." (*Id.* at p. 1120.)

Formal declarations of war are not even the only constitutional mechanisms by which peace could be formally restored. Peace treaties are authorized by the U.S. Constitution. Those powers are shared by Congress and the President. (U.S. Const., art. II, § 2 ["the President shall have Power, by and with the Advice and Consent of the Senate, to make Treaties, provided two-thirds of the Senators present concur"].) Peace treaties historically are a common means of ending hostilities and, like laws passed by Congress, have the full force of law.[8] It is also probably reasonable to interpret peace being formally restored as including peace treaties, but this interpretation arguably is not as immediately obvious as a formal termination of war by Congress.

The author may wish to clarify when, for the purposes of this statute, peace has been formally restored.

b) A time during which the U.S. is engaged in active military operations against any foreign power, whether or not war has been formally declared

The second definition of war in this bill—a time during which the United States is engaged in active military operations against any foreign power, whether or not war has been formally declared—at first glance seems so broad as to swallow the first definition. It is difficult to imagine a situation where "Congress has declared war and peace has not been formally restored" that does not also involve being "engaged in active military operations against any foreign power." On the one hand, a declaration of war by Congress could conceivably predate the beginning of any active military operation against a foreign power.[9] On the other hand, historical evidence suggests that, as defined in this bill, the U.S. perhaps was "engaged in active militarily operations" in World War II prior to Pearl Harbor.[10] This highlights the uncertainty that could be created by leaving undefined the phrase "engaged in active military operations against any foreign power." Does the U.S. transferring, selling, or shipping weapons to an ally for use against a foreign adversary count as being engaged in active military operations?

Of particular concern with the vagueness of the second definition is that it is unclear what is meant both by "engaged in active military operations" and "any foreign power." For example, would a foreign power apply to the Islamic State of Iraq and Syria (ISIS)?

Depending on the level of abstraction applied to these phrases, engaged in active military operations against any foreign power could apply to the 2026 U.S. operation in Venezuela,

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[8] *About Treaties*, United States Senate <https://www.senate.gov/about/powers-procedures/treaties.htm> [as of June 19, 2026].
[9] See *S.J. Res. 116, Declaration of War on Japan, December 8, 1941, World War II: Declaring War on Japan*, United States Capitol Visitor Center <https://www.visitthecapitol.gov/artifact/sj-res-116-declaration-war-japan-december-8-1941> [as of June 19, 2026].
[10] Roos, *How Was the US Involved in WWII Before Pearl Harbor?* (Mar. 12, 2026) History <https://www.history.com/articles/united-states-neutral-wwii-lend-lease> [as of June 19, 2026].

which that appears to have lasted mere hours with an active assault time of just 36 minutes,[11] and to U.S. military action in Afghanistan that lasted 20 years. Indeed, according to the Congressional Research Service (CRS), U.S. armed forces have been involved in military engagements overseas for 202 of its 225 years of existence between 1798-2023.[12] This CRS report additionally shows the use of U.S. armed forces abroad every year from 1980-2023.[13] In other words, depending on how the phrases "active military operations" and "against any foreign power" are defined, SB 493 could have applied for most of the past 50 years. There is a possibility that if this bill is signed into law, combined with California's open states of emergency, certain price gouging provisions could become the new norm in the law, rather than the exception.

c) *A time during which the U.S. is assisting the United Nations, in actions involving the use of armed force, to maintain or restore international peace and security.*

There are similar concerns with the third definition of war under SB 493. This definition may heighten the possibility that SB 493's provisions simply could exist in effect uninterrupted for decades.

The U.S.-United Nations relationship has waxed and waned over the past 80 years, but that relationship appears to be undergoing significant overhaul under the second Trump administration.[14] In a January 2026 Executive Order, President Trump directed U.S. entities to disengage from dozens of UN and intergovernmental groups.[15] While the White House's Fiscal Year 2026 budget zeroed out U.S. contributions for peacekeeping, the U.S. remains involved in the United Nations Security Council and International Atomic Energy Association, which historically have been organizations in some ways involved with international conflicts.[16]

U.S. military involvement in global affairs has been a near constant reality since the birth of our constitutional republic. Inherent in the intent underlying prohibitions against price gouging during emergencies is that these crises are unusual and temporally limited. A definition of war as broad as SB 493's risks unintended application of California's price gouging protections.

4) **Argument in Support**: According to *The Climate Center*, "Under SB 493, a war emergency would include circumstances in which Congress has declared war, the United States is engaged in sustained active military operations against a foreign power, or the United States is participating in United Nations-authorized military actions. This will provide the State

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[11] Cano, et al. *US plans to 'run' Venezuela and tap its oil reserves, Trump says, after operation to oust Maduro* (Jan. 3, 2026) Associated Press <https://apnews.com/article/venezuela-us-explosions-caracas-ca712a67aaefc30b1831f5bf0b50665e> [as of June 19, 2026].
[12] Plagakis and Torreon, *Instances of Use of United States Armed Forces Abroad, 1798-2023* (June 7, 2023) Congressional Research Service <https://www.congress.gov/crs-product/R42738> [as of June 22, 2026].
[13] *Ibid.*
[14] Lombardo, *Opting Out: United States to Stop Engaging with More UN Entities* (Jan. 15, 2026) Center for Strategic & International Studies <https://www.csis.org/analysis/opting-out-united-states-stop-engaging-more-un-entities> [as of June 22, 2026].
[15] *Ibid.*
[16] Lombardo, *What Is the U.S. Posture Toward the United Nations?* (Sep. 25, 2025) Center for Strategic & International Studies <https://www.csis.org/analysis/what-us-posture-toward-united-nations> [as of June 22, 2026].

with additional tools to protect Californians, should the conflict in Iran or any future conflict unlawfully raise the prices of goods and services.

"This expansion is critical to deter bad actors from taking advantage of military conflict to exploit consumers for excessive profits. Earlier this year, for example, the U.S. launched massive military strikes against Iran. That action escalated into sustained military operations and led to a blockade of the Strait of Hormuz, resulting in the largest supply disruption in the history of the global oil market. On the day that the conflict in Iran began, the average price of gas in California was $4.64 per gallon. Since then, the average retail price has increased to $5.99 per gallon–an increase of $1.35 per gallon. Californians alone have already paid over $200 per household, almost $3 billion total, more for gas than they would have absent the conflict.

"Part of the price increase is due to oil and gas being priced on global markets. However, there is also a growing, unexplained price difference between branded and unbranded gasoline in California that does not exist elsewhere in the country. In California, the difference between branded and unbranded gasoline is $0.31/gal. In the rest of the country, it is $0.06/gal. At the same time that they have been profiteering oil majors have run multi-million dollar advertising campaign to try to convince the public of the falsehood that California climate programs are the main reason that gas prices are increasing. These companies have consistently put private gain above the public interest and consumers need to be protected.

"California has some of the strongest price-gouging laws in the country, but they only take effect once an emergency declaration has been issued. As has been demonstrated, war can have a devastating impact on the livelihood of Californians."

5) **Argument in Opposition**: According to the *Supply Chain Federation*, "While the bill is framed as a consumer protection measure, its practical effect is to impose rigid government price controls on the supply chain at precisely the moment when markets face their greatest strain, limiting the flexibility that businesses need to absorb real cost increases and keep goods and services moving.

"SCF represents a diverse coalition of stakeholders involved in California's goods movement sector, including maritime carriers, ports, logistics providers, clean energy innovators, and infrastructure developers. We support efforts that advance cleaner freight solutions while ensuring that California remains a global leader in trade, transportation, and environmental stewardship.

"We recognize the serious affordability challenges facing California families. Rising costs for housing, food and essential goods have placed real strain on households across the state and we share the Legislature's concern about protecting consumers during times of crisis. SCF and its members are committed to an efficient, resilient supply chain that keeps goods moving and costs reasonable for Californians. That shared commitment compels us to raise several concerns about SB 493.

"**Definition of 'War' is Broad and Potentially Perpetual**

"SB 493 would add 'war' to the list of emergencies triggering the state's price gouging statute (Penal Code Section 396). The bill defines "war" to include any period during which the United States is "engaged in active military operations against any foreign power, whether or not war has been formally declared," or is assisting the United Nations in actions involving armed force. Given the persistent nature of U.S. military engagements around the world, this definition could effectively make the emergency price controls a near-permanent mixture rather than a targeted, time-limited protection.

"**Cap Does Not Reflect Real Supply Chain Cost Dynamics**

"The bill caps price increases at ten percent above pre-emergency levels. During armed conflict or global military operations, supply chain costs can surge dramatically due to fuel price spikes, rerouting around conflict zones, elevated cargo insurance premiums, port congestion, tariff disruptions and labor shortages. These are legitimate, externally driven cost increases that have nothing to do with opportunistic price gouging; the existing cost pass-through defense is narrow and difficult to prove, and it would place SCF members in legal jeopardy for pricing that simply reflects market realities.

"**Specifically Covers Transportation and Freight**

"SB 493 explicitly covers "transportation, freight, and storage services," SCF's core membership sectors. Unlike certain consumer goods markets where wartime price gouging might occur, the freight and logistics industry operates in a competitive marketplace with tight margins and significant variable cost exposure. A price cap regime calibrated for retail goods does not fairly translate to commercial logistics.

"California's supply chain workforce and infrastructure are vital to the state's economy and to the daily lives of its residents. We are committed to being part of the solution on affordability, and we ask that the Legislature ensure that solutions do not inadvertently undermine the industry's ability to serve Californians effectively."

6) **Related Legislation**:

a) SB 1365 (Allen) would authorize the city attorney of any city with a population in excess of 900,000 to initiate and prosecute actions violating California's antitrust laws (i.e., Cartwright Act), as defined, on behalf of the city or any public agency or political subdivision, or on behalf of natural persons residing in the city. SB 1365 is scheduled for hearing today in this committee.

b) AB 1847 (Harabedian) would extend the period of mortgage forbearance to 36 months and extends the latest possible deadline for a borrower's request for forbearance to January 7, 2029 for borrowers requesting forbearance on their residential mortgage loan for a period of 12 months if, among other things, the borrower affirms that they are experiencing financial hardship that prevents them from making timely payments on the loan due directly to the wildfire disaster described in the specified state of emergency. AB 1847 is pending hearing in the Senate Banking and Financial Institutions Committee.

7) **Prior Legislation**:

a) SB 610 (Perez), Chapter 547, Statutes of 2025, specified there is no requirement for landlords to rebuild a residential real property or any portion thereof that has sustained damage as a result of a disaster, and that, unless lawfully terminated by either party, the tenancy remains in effect and the tenant has the right to return to the rental unit, at the same rental rate in effect immediately prior to the disaster.

b) SB 368 (Smallwood-Cuevas), of the 2025-2026 Legislative Session, would have required the California Department of Justice and local district attorneys' to establish partnerships to enforce price gouging prohibitions. SB 368 was held in suspense in the Senate Appropriations Committee.

c) SB 36 (Umberg), of the 2025-2026 Legislative Session, would have required a housing listing platform, during the period of 30 days following a proclamation of a state emergency or a declaration of a local emergency to, among other things, remove a listing when notified by law enforcement that the price for a listing made available on the platform violates the price gouging provisions. SB 36 was vetoed by the Governor.

d) AB 380 (Mark Gonzalez), of the 2025-2026 Legislative Session, would have expanded the definition of "housing" to include any rental housing without regard to the length of the initial lease term and would have made the prohibitions on increasing the rental price by more than 10% and eviction generally applicable to commercial real property. AB 380 was held in the Senate Appropriations Committee.

e) SB 1133 (Archuleta), of the 2021-2022 Legislative Session, would have, among other things, excluded from price gouging prohibitions newly constructed housing that was issued a certificate of occupancy for residential use within the 3 months preceding, or within the duration of, a proclamation of a state of emergency or declaration of local emergency. SB 1133 was held in the Assembly Appropriations Committee.

f) SB 1196 (Umberg), Chapter 339, Statutes of 2020, made it a crime for a person, contractor, business, or other entity who did not charge a price for the goods or services immediately prior to the proclamation or declaration of emergency to charge a price that is more than 50% greater than the seller's existing costs.

g) AB 1919 (Wood), Chapter 631, Statutes of 2018, upon an emergency proclamation or declaration, made it a misdemeanor for a person, business, or other entity to increase the rental price advertised, offered, or charged for housing to an existing or prospective tenant by more than 10%.

REGISTERED SUPPORT / OPPOSITION:

Support

American Federation of State, County and Municipal Employees, Afl-cio
Consumer Attorneys of California
Consumer Watchdog
S.f. Bay Physicians for Social Responsibility
Sierra Club
The Climate Center

Opposition

Apartment Association of Greater Los Angeles
Apartment Association of Orange County
Bay Area Council
Berkeley Property Owner's Association
Building Owners and Managers Association
California Apartment Association
California Association of Realtors
California Building Industry Association (CBIA)
California Business Properties Association
California Business Roundtable
California Chamber of Commerce
California Fuels and Convenience Alliance
California Grocers Association
California Hotel & Lodging Association
California Manufacturers & Technology Association (CMTA)
California Rental Housing Association
California Retailers Association
Central City Association of Los Angeles
East Bay Rental Housing Association
Naiop of California
Nor Cal Rental Property Association
North Valley Rental Property Association
Santa Barbara Rental Property Association
Small Property Owners of San Francisco Institute
Southern California Rental Housing Association
Supply Chain Federation
Western Manufactured Housing Communities Association
Western States Petroleum Association

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