
SENATE COMMITTEE ON PUBLIC SAFETY

Senator Jesse Arreguin, Chair
2025 - 2026 Regular

Bill No: AB 394 **Hearing Date:** July 1, 2025
Author: Wilson
Version: April 23, 2025
Urgency: No **Fiscal:** Yes
Consultant: SU

Subject: *Public transportation providers*

HISTORY

Source: California Transit Association & ATU/Teamsters

Prior Legislation: AB 2824 (McCarty), not heard in Assembly Public Safety, 2024
AB 1735 (Low), Ch. 69, Stats. of 2023
AB 1337 (Lee), Ch. 534, Stats. of 2021
AB 730 (Quirk), Ch. 46, Stats. of 2017
AB 468 (Santiago) Ch. 192, Stats. of 2017
AB 716 (Dickinson), Ch. 534, Stats. of 2011
SB 1561 (Steinberg), Ch. 528, Stats. of 2008

Support: AAA Northern California, Nevada & Utah; Automobile Club of Southern California; Bay Area Council; California Conference Board of the Amalgamated Transit Union; California District Attorneys Association; California Federation of Labor Unions, AFL-CIO; California Police Chiefs Association; California Safety and Legislative Board of Smart – Transportation Division (SMART – TD); California State Sheriffs' Association; California Transit Association; City and County of San Francisco; Livermore Amador Valley Transit Authority; Monterey-Salinas Transit; Peace Officers Research Association of California; Peninsula Corridor Joint Powers Board (CALTRAIN); San Diego Metropolitan Transit System; Santa Cruz Metropolitan Transit District; Stanislaus Regional Transit Authority; Sunline Transit Agency; Teamsters California

Opposition: ACLU California Action; Western Center on Law & Poverty

Assembly Floor Vote: 76 - 0

PURPOSE

The purpose of this bill is to expand the category of workers who qualify as victims under the crime of battery upon a transit worker, and to expand the ability of employers and collective bargaining representatives to seek transit prohibition orders against persons alleged, but not convicted of, having committed the crime of battery upon a transit worker by means of a civil workplace violence restraining order.

Existing law defines an “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 the county jail, by a fine not exceeding \$1,000, or by both. (Pen. Code, §§ 240 & 241, subd. (a).)

Existing law defines a “battery” as the 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, by a fine not to exceed \$2,000, or by both. (Pen. Code, §§ 242 & 243, subd. (a).)

Existing law provides that when a battery is committed upon any person and serious bodily injury is inflicted upon that person, the offense is punishable as a “wobbler” with a possible sentence of up to one year in the county jail, or for two, three, or four years in the county jail. (Pen. Code, § 243, subd. (d).)

Existing law provides that when a battery is committed against the person of an operator, driver, or passenger on a bus, taxicab, streetcar, cable car, trackless trolley, or other motor vehicle, including a vehicle operated on stationary rails or on a track or rail suspended in the air, used for the transportation of persons for hire, or against a school bus driver, or against the person of a station agent or ticket agent for the entity providing the transportation, and the person who commits the offense knows or reasonably should know that the victim, in the case of an operator, driver, or agent, is engaged in the performance of his or her duties, or is a passenger, the offense is punishable by a fine not exceeding \$10,000, or by imprisonment in a county jail not exceeding one year. (Pen. Code, § 243.3.)

Existing law provides that if an injury is inflicted on a victim of the above battery, it is punishable by a fine not exceeding \$10,000, or by imprisonment in a county jail not exceeding one year, or by imprisonment in the state prison for 16 months, or two or three years. (Pen. Code, § 243.3.)

Existing law states that, except as provided above, when a battery is committed against any person on the property of, or in a motor vehicle of, a public transportation provider, it is punishable by a fine of up to \$2,000, or by imprisonment in a county jail not exceeding one year, or by both. (Pen. Code, § 243.35, subd. (a).)

Existing law defines “public transportation provider” as “a publicly or privately owned entity that operates, for the transportation of persons for hire, a bus, taxicab, streetcar, cable car, trackless trolley, or other motor vehicle, including a vehicle operated on stationary rails or on a track or rail suspended in air, or that operates a schoolbus.” (Pen. Code, § 243.35, subd. (b).)

Existing law defines “on the property of” as “the entire station where public transportation is available, including the parking lot reserved for the public who utilize the transportation system.” (Pen. Code, § 243.35, subd. (c).)

Existing law provides that any person who enters or remains upon any transit-related property without permission or whose entry, presence, or conduct upon the property interferes with, interrupts, or hinders the safe and efficient operation of the transit-related facility is guilty of a misdemeanor. (Pen. Code, § 369i, subd. (b)(1).)

Existing law defines “transit-related property” as any land, facilities, or vehicles owned, leased, or possessed by a county transportation commission, transportation authority, or transit district, that are used to provide public transportation by rail or passenger bus or are directly related to

that use, or any property, facilities, or vehicles upon which the San Francisco Bay Area Rapid Transit District (BART) owes policing responsibilities to a local government pursuant to an operations and maintenance agreement or similar interagency agreement. (Pen. Code, § 369i, subd. (b)(2).)

Existing law authorizes BART, Sacramento Regional Transit District (SacRT), Fresno Area Express, Los Angeles County Metropolitan Transportation Authority (Metro), Santa Clara Valley Transportation Authority, or the Santa Monica Department of Transportation, to issue a prohibition order to any person to which any of the following apply:

- Is cited for an infraction committed in or on a vehicle, bus stop, or light rail station of the transit district, or a property, facility, or vehicle upon which BART owes policing responsibilities to a local government on at least three separate occasions within a period of 90 consecutive days for any of the following acts:
 - Interfering with the operator or operation of a transit vehicle, or impeding the safe boarding or alighting of passengers;
 - Committing any act or engaging in any behavior that may, with reasonable foreseeability, cause harm or injury to any person or property;
 - Willfully disturbing others on or in a transit facility or vehicle by engaging in boisterous or unruly behavior;
 - Carrying an explosive, acid, or flammable liquid in a public transit facility or vehicle;
 - Urinating or defecating in a transit facility or vehicle, except in a lavatory;
 - Willfully blocking the free movement of another person in a transit facility or vehicle; or,
 - Defacing with graffiti the interior or exterior of the facilities or vehicles of a public transportation system. (Pub. Util. Code, § 99171, subd. (a)(1)(A).)
- Is arrested or convicted for any misdemeanor or felony committed in or on a vehicle, bus stop, or light rail station of the transit district, for acts involving violence, threats of violence, lewd or lascivious behavior, or possession for sale or sale of a controlled substance. (Pub. Util. Code, § 99171, subd. (a)(1)(B).)
- Is convicted of loitering with the intent to commit specified drug offenses. (Pub. Util. Code, § 99171, subd. (a)(1)(C).)

Existing law prohibits a person subject to a prohibition order from entering the transit district property, facilities, or vehicles for a period of time deemed appropriate by the transit district, provided that the duration of a prohibition order shall not exceed the following, as applicable:

- Thirty days if based on citations for infractions, provided that a second prohibition order within one year shall not exceed 90 days, and a third or subsequent prohibition order within one year shall not exceed 180 days.
- Thirty days if based on an arrest for acts involving violence, threats of violence, lewd or lascivious behavior, or possession for sale or sale of a controlled substance.
- Upon conviction of a misdemeanor offense, the duration of the prohibition order shall not exceed 180 days when added to the duration of the prohibition order for the initial arrest.

- Upon conviction of a felony offense, the duration of the prohibition order shall not exceed one year when added to the duration of the prohibition order for the initial arrest. (Pub. Util. Code § 99171, subd. (a)(2).)

Existing law makes the validity of such a prohibition order issued contingent on the transit district affording the person an opportunity to contest the transit district's proposed action in accordance with procedures adopted by the transit district for this purpose. A transit district's procedures shall provide, at a minimum, for the notice and other due process protections, including ability to contest and an administrative review, among others. (Pub. Util. Code, § 99171, subds. (a)(3), (b) & (c).)

Existing law states that if the person is dependent upon the transit system for trips of necessity, including, but not limited to, travel to or from medical or legal appointments, school or training classes, places of employment, or obtaining food, clothing, and necessary household items, the transit district shall modify a prohibition order to allow for those trips. (Pub. Util. Code, § 99171, subd. (c)(2).)

Existing law states that before exercising the authority to issue prohibition orders, a transit district shall establish an advisory committee, ensure that personnel to be charged with issuing and enforcing prohibition orders have received training, and provide reasonable notification to transit district riders that persons who engage prohibited conduct may be subject to a prohibition order. (Pub. Util. Code, § 99172, subd. (a).)

Existing law tasks the advisory committee preparing an annual report summarizing the number of prohibition orders that were issued by the transit district during the preceding year, including, but not limited to, the types and numbers of citations by category, and the number of exclusion orders appealed, the appeals granted, the reasons granted, and other relevant information directly related to those orders. (Pub. Util. Code, § 99172, subd. (c)(4).)

Existing law sets forth standards and procedures under which an employer or a collective bargaining representative may seek a civil restraining order (both a temporary restraining order and an order after a hearing) on behalf of an employee who has suffered from unlawful violence or a credible threat of violence that can reasonably be construed to be carried out or to have been carried out at the workplace. (Code of Civ. Proc., § 527.8.)

Existing law defines "unlawful violence" for purposes of a civil workplace violence restraining order as any assault, battery, or stalking, excluding lawful acts of self-defense or defense of others. (Code of Civ. Proc., § 527.8, subd. (b)(8).)

Existing law makes a violation of a civil workplace violence restraining order a misdemeanor punishable by a fine of not more than \$1,000, or by imprisonment in a county jail for not more than one year, or by both. (Code of Civ. Proc., § 527.8, subd. (u).)

This bill expands the list of persons covered by the offense of battery on a transportation worker or passenger to include a public transportation provider, and an employee or contractor of a public transportation provider.

This bill specifies that "unlawful violence," for purposes of a civil workplace violence restraining order, includes a violation of the crime of battery on specified transit workers.

This bill authorizes any temporary workplace restraining order or injunction issued against an individual based on a violation of the crime of battery of a transit worker is to be enforceable across the entirety of any public transit system where the underlying offense occurred, at the court's discretion.

This bill provides that for the purposes of a temporary restraining order or injunction issued against an individual based on a violation of the crime of battery of a transit official, "public transit system" includes, but is not limited to, a system operated by a transit district, municipal operator, county transportation commission, transportation authority, joint powers authority, or other public transit operator.

This bill specifies that a law enforcement agency with jurisdiction over the public transit system shall have the authority to enforce orders, and the public transit system shall promptly notify any relevant law enforcement agency of the issuance of the order to assist with enforcement.

COMMENTS

1. Need for This Bill

According to the author:

California's public transit employees continue to face escalating threats of violence and harassment, creating unsafe conditions for both workers and passengers. Existing laws, such as Penal Code 243.3, provide limited protection, covering only specific transit roles while excluding essential employees like janitors, fare collectors, and station agents. AB 394 promotes safer transit environments for both riders and workers in two key ways. First, the bill expands existing law (Penal Code Section 243.3) to protect all transit employees against battery. Second, AB 394 clarifies that a transit agency may seek a temporary restraining order against a perpetrator for a violation of Penal Code Section 243.3, and that the restraining order may apply across the entirety of the transit system where the offense occurred.

By enhancing safety measures, AB 394 ensures a safer and more welcoming environment for the millions of Californians who rely on public transit—many of whom are from low-income and communities of color. This bill not only improves safety and equity within our transit systems but also contributes to maintaining public confidence, boosting ridership, and supporting a resilient public transportation network for all.

2. Assault and Battery

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.) Assault is essentially attempted battery. "Simple 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.) An example of an assault would be if a person swung at

another person without hitting them, whereas if the person did strike the other person, the conduct would become a battery.

This bill addresses “simple” batteries, ones that do not involve infliction of serious injury or the likelihood of great bodily injury. This bill does not address assaults.

Simple batteries on most individuals are misdemeanors punishable by up to 6 months in jail. The sections amended by this bill provides higher penalties for simple assaults and batteries committed against transit workers or transit passengers. The punishment for an assault or battery committed against these protected individuals is up to one year in jail. However, if an injury is inflicted on a victim of the above battery, it is punishable as a wobbler, with the misdemeanor penalty being imprisonment in a county jail not exceeding one year, and the felony punishment being imprisonment in the state prison for 16 months, or two or three years. (Pen. Code, § 243.3.)

This bill expands the category of workers included in the statute with the elevated penalty to include a public transportation provider and an employee or contractor of a public transportation provider.

The background information provided by the author notes that, according to the U.S. Department of Transportation, assaults on transit workers are a significant and growing concern in the transit industry. The National Transit Database documented an increase in assaults from 374 events in 2018 to 656 in 2023. (United States Department of Transportation Federal Transit Administration, Protecting Transit Workers & Customers from Assaults, June 1, 2024, available at < <https://a11.asmdc.org/sites/a11.asmdc.org/files/2025-02/Protecting%20Transit%20Workers%20DOT.pdf> > [as of June 26, 2025].)

3. Expansion of State Prison Felony and Effect on Immigration Enforcement

While battery on a transportation worker or passenger is punishable as a misdemeanor with imprisonment in county jail, battery on a transportation worker causing *any injury* is punishable as a wobbler, with the felony sentence to be served in state prison. (Pen. Code, § 243.3.)

Unlike local law enforcement who have restrictions on cooperating with federal immigration authorities, the California Department of Corrections and Rehabilitation (CDCR) is required to identify individuals in its custody who may be subject to deportation within 90 days of intake into the prison system. (Pen. Code, § 5025.) CDCR is also required to cooperate with the Department of Homeland Security by providing the use of prison facilities, transportation, and general support, as needed, for the purposes of conducting and expediting deportation hearings and subsequent placement of deportation holds on undocumented immigrants who are incarcerated in state prison. (Pen. Code, § 5026.)

CDCR describes its interaction with U.S. Customs and Immigration Enforcement (ICE) as follows:

CDCR is required under Penal Code Section 5025 to identify individuals in its custody who may be subject to deportation within 90 days of intake into the prison system. To meet this requirement, CDCR conducts an initial inquiry with ICE for individuals who may not be U.S. citizens. CDCR also complies with federal holds placed by ICE under Penal Code Section 5026.

Shortly before an individual's release, CDCR is required to review their file for state and federal holds, warrants, and detainers, including those placed by ICE. If the file indicates that an individual is a noncitizen, but no ICE detainer exists, CDCR contacts ICE to determine if a detainer will be placed. If an ICE detainer exists, within 10-15 days of an incarcerated person's scheduled release date, CDCR contacts ICE to determine whether ICE intends to take custody of the individual upon release. Coordination with ICE is limited to the transfer of custody.

By expanding the categories of persons covered by the statute, in the event that a non-citizen defendant causes an injury to such a person, however slight, which results in a felony conviction and state prison sentence, it will result in CDCR having to automatically notify ICE.

4. Prohibition Orders

Currently, any employer or collective bargaining representative of an employee who has suffered harassment, unlawful violence, or a credible threat of violence from any individual, may seek a temporary restraining order, and order after a hearing, on behalf of the employee, prohibiting that individual from engaging in harassing or threatening conduct, or coming within a certain distance, of that employee. (Code Civ. Proc., § 527.8, subd. (a).) Such an order may enjoin a party from harassing, intimidating, molesting, attacking, striking, stalking, threatening, sexually assaulting, battering, abusing, telephoning, destroying personal property, contacting, or coming within a specified distance of, or disturbing the peace of, the employee. (Cal. Civ. Proc. Code § 527.8, subd. (b)(7).) Alternatively, an order may enjoin a party from specified behavior that the court determines is necessary to effectuate an order described above. (*Ibid.*) The temporary restraining order can last up to 21 days, and the order after a hearing can last up to 3 years. (Cal. Civ. Proc. Code § 527.8, subds. (h) & (l)(1).) In addition, these orders may be renewed, upon the request of a party, for up to three additional years, without a showing of any further harassment, unlawful violence, or credible threats of violence since the issuance of the original order. (Cal. Civ. Proc. Code § 527.8, subd. (l)(1).)

While a civil workplace violence restraining order could already be sought for battery upon a transit worker, this bill expands the restrictiveness of the workplace restraining orders that may be issued against an individual that commits battery against a transit worker by prohibiting their presence from the entirety of the public transit system where the underlying offense occurred for the duration of the restraining order.

This bill's proposed application to the entirety of transit systems will create a hardship for persons that utilize public transit systems as their only means of transportation. Such an order may prohibit such individuals from going to school, or work, or accessing medical care or going to legal appointments or court. Notably, the civil workplace violence restraining order does not require a conviction, but rather just an allegation that a battery upon a transit worker occurred. A person who relies on public transit as their sole means of transportation would face a challenge to simply appear in court to resolve their case. Further, the duration of such an order and ensuing prohibition, if it is renewed, could be twice as long as the prison sentence an individual would have to serve for the underlying crime itself. And of course, such prohibitions will disproportionately impact low income individuals.

In contrast to the proposed expansion of civil workplace violence restraining orders, some transit agencies are authorized to issue prohibition orders to riders when certain violations, including acts involving violence, occur. The duration of these orders are much shorter in length, with the longest being one year for a felony conviction for the conduct underlying the order. In addition, the issuing transit authority must consider whether the person is dependent upon the transit system for trips of necessity, including, but not limited to, travel to or from medical or legal appointments, school or training classes, places of employment, or obtaining food, clothing, and necessary household items. In the event such a person is dependent on public transit, the transit district is required to modify a prohibition order to allow for those trips.

If another tool for prohibition orders is necessary, should this bill be amended to expand the authority of other transit agencies to use the Public Utilities Code prohibition orders instead of expanding their authority under the civil workplace violence restraining order process?

5. Argument in Support

According to the California Conference Board of the Amalgamated Transit Union, a co-sponsor of this bill:

Across the board, transit workers share the near universal experience of facing threats and violence on the job. Worse yet, these incidents have steadily climbed over the past several years. Every day, transit workers experience being spit at, stabbed, hit, sexually assaulted and worse. Unfortunately, the vast majority of incidents have historically not even made it into the National Transit Database, which until 2023 only recorded major assaults – meaning they resulted in a fatality or injury requiring medical transport. Major assaults alone on transit workers went up 73% from just 2018 to 2023.

Unfortunately, existing laws intended to protect transit employees have proven too narrow and insufficient. AB 394 promotes safer transit environments for both riders and workers in several key ways. First, the bill expands existing law to protect all transit employees against batteries and stalking, which was previously limited to operators alone. Secondly, AB 394 clarifies that the workplace violence temporary restraining order (TRO) authority now explicitly applies to violations of the transit employee assault statute, and can be enforced across an entire transit system.

These incidents have directly impacted daily operations, and as a result, many agencies throughout the state are experiencing severe operator and employee shortages. This has also impacted riders' feelings of safety on public transit systems and is frequently cited as a leading reason members of the public avoid utilizing public transit. For these reasons, it is imperative that the legislature acts to protect both transit employees and riders alike. As we continue to be inundated with stories about the fiscal challenges facing transit, a huge part of the puzzle is making transit more attractive and accessible to everyday Californians. This means adequately enforcing safety on transit systems across the state.

6. Argument in Opposition

According to the Western Center on Law and Poverty:

While protecting transit operators is an important public policy measure, AB 394 is overly broad and eliminates essential access to transportation, employment, healthcare, and housing, which are all key determinants of rehabilitation and reentry following incarceration. Following a criminal conviction for battery “against an employee or contractor of a public transportation provider,” AB 394 creates a pathway for criminalization of using vital transit services – by allowing a subsequent prohibition on the use of public transportation...

AB 394 creates an amorphous standard riddled with discretion, subject to the existing biases in California’s criminal justice system. By imposing a new obstacle on mobility after release from incarceration, AB 394 exacerbates reentry challenges following release from incarceration. Contrary to the U.S. Attorney General’s 2022 recommendations to eliminate reentry obstacles to lower recidivism rates, AB 394 undermines public safety in favor of expansive punishment against individuals post-incarceration.

Despite the car dependence of many Californians, 2.76 million Californians are carless, with approximately 2.09 million people utilizing public transit. Carless households are disproportionately people of color and low-income. Without vehicles, these households typically spend more time on travel and often have to travel further to access services. Since these same communities are disproportionately represented in both criminal charging and incarceration, AB 394 will disproportionately impact low-income people of color reliant on public transportation. As a result of AB 394, many people will be foreclosed from any form of transportation, which “is a key social determinant of health.” Transportation is required to access housing, employment, social networks, access to medical care. In fact, transportation is essential to manage chronic diseases, which disproportionately impact incarcerated and formerly incarcerated individuals. AB 394 may prevent formerly incarcerated individuals accessing vital treatment for chronic conditions like high blood pressure, asthma, cancer, arthritis, tuberculosis, hepatitis C, HIV, and mental health disorders. Moreover, transportation is a key factor linked to social mobility, so AB 394 will only contribute to maintaining cycles of poverty among California’s most vulnerable communities.

– END –