
SENATE COMMITTEE ON PUBLIC SAFETY

Senator Jesse Arreguín, Chair
2025 - 2026 Regular

Bill No: AB 1087 **Hearing Date:** July 8, 2025
Author: Patterson
Version: April 28, 2025
Urgency: No **Fiscal:** Yes
Consultant: CA

Subject: *Crimes: vehicular manslaughter while intoxicated.*

HISTORY

Source: Author

Prior Legislation: AB 2823 (Joe Patterson), was not heard in Assembly Public Safety, 2024
AB 1950 (Kamlager), Chap. 328, Stats. of 2020

Support: California District Attorneys Association; California Police Chiefs Association

Opposition: None known

Assembly Floor Vote: 78 - 0

PURPOSE

The purpose of this bill is to increase the term of probation from two years to three to five years for a person convicted of vehicular manslaughter while intoxicated or gross vehicular manslaughter while intoxicated.

Existing law provides that gross vehicular manslaughter while intoxicated is the unlawful killing of a human being without malice aforethought, in the driving of a vehicle, where the driving was under the influence of alcohol or drugs, as specified, with gross negligence. (Pen. Code, § 191.5, subd. (a).)

Existing law provides that gross vehicular manslaughter while intoxicated is a felony, punishable by imprisonment in the state prison for four, six, or 10 years. (Pen. Code, § 191.5, subd. (c)(1).)

Existing law provides that a person convicted of gross vehicular manslaughter while intoxicated, who has one or more prior specified convictions, shall be punished by imprisonment in the state prison for a term of 15 years to life. (Pen. Code, § 191.5, subd. (d).)

Existing law provides that vehicular manslaughter while intoxicated is the unlawful killing of a human being without malice aforethought, in the driving of a vehicle, where the driving was under the influence of alcohol or drugs, as specified, but without gross negligence. (Pen. Code, § 191.5, subd. (b).)

Existing law provides that vehicular manslaughter while intoxicated is punishable as a misdemeanor by imprisonment in a county jail for not more than one year or as a felony by

imprisonment in the county jail for 16 months, two, or four years. (Pen. Code, § 191.5, subd. (c)(2).)

Existing law generally provides for a period of probation not to exceed one year in misdemeanor cases and not exceeding two years in felony cases. (Pen. Code, §§ 1203a & 1203.1, subd. (a).)

Existing law requires, if any person is convicted of driving under the influence (DUI), as specified, and is granted probation, the period of probation to be for a term as follows:

- For a period of between three and five years; or,
- If the maximum sentence for the offense exceeds five years, for a period of probation for a longer period than three years but not exceeding the maximum time for which sentence imprisonment may be pronounced. (Veh. Code, § 23600, subd. (b)(1).)

This bill provides for a period of probation of between three and five years for vehicular manslaughter while intoxicated and gross vehicular manslaughter while intoxicated.

COMMENTS

1. Need for This Bill

According to the author:

California law has a major disparity in how the criminal justice system grants probation to those who drive under the influence that results in an injury or death of another person. If you take the life of someone while driving under the influence, you shouldn't be on probation for less time than a person who didn't. By aligning the terms of probation, we can ensure the person who took a life can receive much needed services from our probation officers while being responsibly monitored to ensure they don't recidivate.

2. Vehicular Manslaughter While Intoxicated and Gross Vehicular Manslaughter While Intoxicated

Manslaughter is the unlawful killing of a human being without malice. (Pen. Code, §§ 191.5 & 192.) The difference between vehicular manslaughter while intoxicated and gross vehicular manslaughter while intoxicated is the degree of negligence required. Vehicular manslaughter while intoxicated only requires ordinary negligence, which is the failure to use reasonable care to prevent reasonably foreseeable harm to oneself or someone else. A person is negligent if they do something that a reasonably careful person would not do in the same situation. (Pen. Code, § 7; see also CALCRIM No. 591 [Vehicular Manslaughter While Intoxicated].) On the other hand, gross vehicular manslaughter while intoxicated requires a person to act in a reckless way that creates a high risk of death or great bodily injury. In other words, a person acts with gross negligence when they disregard human life. (*People v. Penny* (1955) 44 Cal.2d 861; see also CALCRIM NO. 590 [Gross Vehicular Manslaughter While Intoxicated].)

3. Probation Terms

Probation is the suspension of a custodial sentence and a conditional release of a defendant into the community. Probation can be “formal” or “informal.” “Formal” probation is under the direction and supervision of a probation officer. As a general proposition, the level of probation supervision will be linked to the level of risk the probationer presents to the community.

Defendants convicted of misdemeanors, and most felonies, are eligible for probation based on the discretion of the court. When considering the imposition of probation, the court evaluates the safety of the public, the nature of the offense, the interests of justice, the loss to the victim, and the needs of the defendant. (Pen. Code, § 1202.7.) The court also has broad discretion to impose conditions that foster the defendant’s rehabilitation and protect public safety. (*People v. Carbajal* (1995) 10 Cal.4th 1114, 1120.) A valid condition must be reasonably related to the offense and aimed at deterring misconduct in the future. (*Id.* at 1121.)

Prior to 2021, when a defendant was convicted of a felony, the court could impose a term of probation for up to five years, or no longer than the prison term that can be imposed if the maximum prison term exceeds five years. (See former Pen. Code, § 1203.1.) In misdemeanor cases, the court could impose a term of probation for up to three years, or no longer than the maximum term of imprisonment if more than three years. (Former Pen. Code, § 1203a.) AB 1950 (Kamlager), Chapter 328, Statutes of 2020, limited probation to two years for a felony and one year for a misdemeanor, except for “an offense that includes specific probation lengths within its provisions.” (Pen. Code, § 1203.1, subd. (l)(1).)

Existing law provides for a period of between three and five years of probation for any person convicted of DUI. (Veh. Code, § 23600, subd. (b)(1).) However, if the maximum sentence for the offense exceeds five years, the period of probation may be for a longer period than three years but may not exceed the maximum time for which imprisonment may be pronounced. (*Ibid.*) DUI is a lesser included offense of both vehicular manslaughter and gross vehicular manslaughter. However, there is no specified probation term for the latter crimes. As such, despite being more serious crimes than DUI, the maximum term of probation for both vehicular manslaughter and gross vehicular manslaughter is two years. (See *Bowden v. Superior Court* (2022) 82 Cal.App.5th 735, 745.)

In confronting this issue, the court in *Bowden*, stated:

We recognize that the greater offense in this case (Pen. Code, § 191.5(b)) carries a shorter probation term than the lesser included offenses (Veh. Code, § 23153 or 23152), but this outcome is neither absurd nor contrary to the Legislature's intent. The act of legislating is the act of line drawing, and the Legislature could reasonably have determined that it would exempt from the new two-year limit on felony probation those crimes for which it had specifically provided a longer probation term, but not other crimes even if they might normally be considered more serious, especially where, as here, the greater offense carries a greater overall punishment than the lesser included offenses. (*Bowden, supra*, 82 Cal.App.5th at pp. 744-745.)

This bill would increase the period of probation for vehicular manslaughter while intoxicated and gross vehicular manslaughter while intoxicated from a term of two years to a term of three to five years.

4. Argument in Support

According to the California Police Chiefs Association:

Current law is that if a person is convicted of unlawfully killing a human being without malice aforethought while driving under the influence, and is granted probation, the probation period is limited to one year for a misdemeanor conviction and two years for a felony conviction. AB 1087 would align the probation period for these convictions with that of standard driving under the influence offenses, which ranges from three to five years, unless the maximum prison sentence for the offense exceeds five years, in which case the probation period may be extended.

There is a significant problem with the current laws, as someone charged with a DUI Misdemeanor or DUI Felony has a longer probation term than someone who commits vehicular manslaughter while intoxicated. These types of fatalities are preventable, which is why we need to expand probation terms to allow for more treatment in order for a person to re-enter the community. By increasing the probation duration, AB 1087 would hold offenders accountable for a longer period, providing more opportunities for rehabilitation and monitoring to prevent further offenses.

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