
SENATE COMMITTEE ON PUBLIC SAFETY

Senator Jesse Arreguín, Chair
2025 - 2026 Regular

Bill No: AB 1741 **Hearing Date:** June 16, 2026
Author: Pacheco
Version: March 11, 2026
Urgency: No **Fiscal:** Yes
Consultant: ML

Subject: *Sexual battery*

HISTORY

Source: Riverside District Attorney's Office

Prior Legislation: SB 848 (Soria), Ch. 625, Stats. of 2025
SB 442 (Limon), Ch. 981, Stats. of 2024
SB 1421 (Romero), Ch. 302, Stats. of 2002

Support: California District Attorneys Association; California State Sheriffs' Association

Opposition: ACLU California Action; California Public Defenders Association; Ella Baker Center for Human Rights; Los Angeles County Public Defender's Union, Local 148

Assembly Floor Vote: 70 - 0

PURPOSE

The purpose of this bill is to make sexual battery when committed after having entered an inhabited dwelling, without consent, punishable as an alternate felony-misdemeanor.

Existing law states that any person who touches the intimate body part of another person while that person is unlawfully restrained by the accused or accomplice, and if the touching is against the will of the person touched and is for the purpose of sexual arousal, sexual gratification, or sexual abuse, is guilty of sexual battery. This act is punishable as an alternate felony-misdemeanor by imprisonment in a county jail for not more than one year, and by a fine not exceeding \$2,000; or by imprisonment in the state prison for 2, 3, or 4 years, and by a fine not exceeding \$10,000. (Pen. Code, § 243.4, subd. (a).)

Existing law states that sexual battery of another person who is institutionalized for medical treatment and who is seriously disabled or medically incapacitated is punishable as an alternate felony-misdemeanor by imprisonment in a county jail for not more than one year, and by a fine not exceeding \$2,000; or by imprisonment in the state prison for 2, 3, or 4 years, and by a fine not exceeding \$10,000. (Pen. Code, § 243.4, subd. (b).)

Existing law states that sexual battery of another person when the perpetrator fraudulently represented that the touching served a professional purpose is punishable as an alternate felony-misdemeanor by imprisonment in a county jail for not more than one year, and by a fine not

exceeding \$2,000; or by imprisonment in the state prison for 2, 3, or 4 years, and by a fine not exceeding \$10,000. (Pen. Code, § 243.4, subd. (c).)

Existing law states that sexual battery of a person while that person is unlawfully restrained either by the accused or an accomplice, or is institutionalized for medical treatment and is seriously disabled or medically incapacitated, to masturbate or touch an intimate part of either of those persons or a third person is punishable as an alternate felony-misdemeanor by imprisonment in a county jail for not more than one year, and by a fine not exceeding \$2,000; or by imprisonment in the state prison for 2, 3, or 4 years, and by a fine not exceeding \$10,000. (Pen. Code, § 243.4, subd. (d).)

Existing law makes all other types of sexual battery, including causing a person to masturbate or touch an intimate part of those persons or a third person against the victim's will, punishable as a misdemeanor by a fine not exceeding \$2,000, or by imprisonment in a county jail not exceeding six months, or by both that fine and imprisonment. (Pen. Code, § 243.4, subd. (e)(1).)

Existing law provides that "touches," for the purpose of sexual battery, means physical contact with another person, whether accomplished directly, through the clothing of the person committing the offense, or through the clothing of the victim. (Pen. Code, § 243.4, subd. (e)(2).)

Existing law defines "intimate part" for purposes of sexual battery as the sexual organ, anus, groin, or buttocks of any person, and the breast of a female. (Pen. Code, § 243.4, subd. (g)(1).)

Existing law specifies that "sexual battery" does not include rape or sexual penetration. (Pen. Code, § 243.4, subd. (g)(2).)

Existing law requires a person convicted of sexual battery to register as a sex offender. (Pen. Code, § 290, subd. (c).)

Existing law specifies that the punishment for indecent exposure after having entered, without consent, an inhabited dwelling house, or trailer coach, or the inhabited portion of any other building, is either imprisonment in the state prison, or in the county jail not exceeding one year. (Pen. Code, § 314.)

Existing law specifies that the punishment for annoying or molesting a child under 18 after having entered, without consent, an inhabited dwelling house, or trailer coach, or the inhabited portion of any other building, is either by imprisonment in the state prison, or in a county jail not exceeding one year, and by a fine not exceeding \$5,000. (Pen. Code, § 647.6, subd. (b).)

Existing law provides that every person who enters any house, room, apartment, tenement, shop, warehouse, store, mill, barn, stable, outhouse or other building, tent, vessel, floating home, railroad car, locked or sealed cargo container, any house car, inhabited camper, vehicle when the doors are locked, aircraft, or mine or any underground portion thereof, with intent to commit grand or petit larceny or any felony is guilty of burglary. (Pen. Code, § 459, subd. (a).)

Existing law defines "inhabited" for purposes of burglary to mean currently being used for dwelling purposes, whether occupied or not. (*Ibid.*)

Existing law states that every burglary of an inhabited dwelling house, vessel which is inhabited and designed for habitation, floating home, or trailer coach, or the inhabited portion of any other building, is burglary of the first degree. (Pen. Code, § 460, subd. (a).)

This bill makes sexual battery when committed after having entered an inhabited dwelling, without consent, punishable as an alternate felony-misdemeanor.

COMMENTS

1. Need for This Bill

The author writes:

Current gaps in California's Penal Code allow some cases of sexual battery committed during a residential break-in to be charged only as misdemeanors unless additional factors are present. This means that someone who enters a home and sexually touches a victim may avoid felony charges simply because they did not intend to steal or commit another felony.

That outcome does not reflect the seriousness of invading a person's home to commit a sexual offense. A person's home should be a place of safety and privacy. Entering that space to commit sexual battery is an extreme violation of personal autonomy and security.

AB 1741 closes this loophole by ensuring that sexual battery committed during a home break-in may be charged as a felony wobbler, giving prosecutors and courts discretion to seek penalties that reflect the severity of the crime. The bill does not change the definition of sexual battery; it ensures that when this conduct occurs in the context of a residential intrusion, the law recognizes the heightened harm of the offense.

2. Sexual Battery

California's sexual battery statute, Penal Code section 243.4, includes five subdivisions that define sexual battery based on the defendant's conduct and set the punishment for each respective situation. Subdivisions (a), (b), and (c) cover situations where the defendant touches the intimate parts of the victim while the victim is unlawfully restrained, institutionalized for medical treatment, or not conscious of the sexual nature of the act because of a fraudulent representation. (Pen. Code, § 243.4, subs. (a)-(c).) Subdivisions (a), (b), and (c) are wobblers (i.e., either a felony or misdemeanor).

Subdivision (d) proscribes conduct different from the other sexual batteries. Subdivision (d) covers the situation where the defendant causes the victim to masturbate or touch the intimate part of the defendant or another person. Subdivision (d) is a wobbler, and like the other wobblers, subdivision (d) requires that the victim is unlawfully restrained or institutionalized for medical treatment, and the "touching" requires the victim to touch the skin of the defendant or another person's intimate parts. (Pen. Code, § 243.4, subs. (d), (f).)

Subdivision (e) is misdemeanor sexual battery. (Pen. Code, § 243.4, subd. (e).) This subdivision covers situations where the defendant touches the intimate parts of the victim. For misdemeanor

sexual battery, unlike subdivisions (a), (b), and (c), there is no requirement that the victim be unlawfully restrained, institutionalized for medical treatment, or not conscious of the sexual nature of the act. These differences make the misdemeanor definition broader than the wobbler definition, and as such, subdivision (e) proscribes a wider variety of conduct than subdivisions (a), (b), and (c).

3. Burglary

Every person who enters any house, room, apartment, tenement, shop, warehouse, store, mill, barn, stable, outhouse or other building, tent, vessel, floating home, railroad car, locked or sealed cargo container, any house car, inhabited camper, vehicle when the doors are locked, aircraft, or mine or any underground portion thereof, with intent to commit grand or petit larceny or any felony is guilty of burglary. (Pen. Code, § 459, subd. (a).) “Inhabited” for purposes of burglary means currently being used for dwelling purposes, whether occupied or not. (*Ibid.*) Every burglary of an inhabited dwelling house, vessel which is inhabited and designed for habitation, floating home, or trailer coach, or the inhabited portion of any other building, is burglary of the first degree. (Pen. Code, § 460, subd. (a).)

4. Effect of This Bill

This bill adds to the existing sexual battery statute a circumstance where a person commits an act of sexual battery after having entered an inhabited dwelling without consent. This offense would be punishable as a wobbler.

Notably, there is already an existing statute that may be used to punish this conduct. Subdivision (b) of Penal Code section 220 makes a person who assaults another with intent to commit rape, sodomy, oral copulation, lewd and lascivious acts, or sexual penetration guilty of a felony. This crime is punishable by imprisonment in the state prison for two, four, or six years. If the victim is under 18 years of age, the punishment is five, seven, or nine years. If the person commits this crime via first degree burglary, the punishment is life with the possibility of parole. For example, in one case in Fresno, a man entered an occupied home and groped a woman as she slept. He was charged with felony assault with intent to commit a sex offense. (*Fresno Man Arrested for Home Invasion, Groping Sleeping Woman*, GV Wire (July 18, 2025)

<<https://gvwire.com/2025/07/18/fresno-man-arrested-for-home-invasion-groping-sleeping-woman/>> [as of Jun. 5, 2026].)

This bill increases the punishment for sexual battery when the conduct occurred after entering another person’s residence without their consent. Depending on the circumstances, this conduct may not rise to the level of first-degree burglary, which requires evidence that the defendant entered a dwelling place with intent to commit larceny or any felony. (Pen. Code, § 459, 460.) The sponsor of this bill argues that because a person who enters a dwelling place to commit misdemeanor sexual battery does not have the intent to commit larceny or a felony, the person may not be guilty of burglary or first degree burglary. If there were any evidence that the defendant restrained the victim to accomplish the sexual battery or tried to get the victim to touch the defendant for purposes of sexual arousal, the defendant could be charged with a felony and likely burglary. (Pen. Code, § 243.4, subds. (a) & (d).)

There are similar provisions in existing law that punish indecent exposure (Pen. Code, § 314) and annoying or molesting a minor (Pen. Code, § 647.6, subd. (b)), which are generally punished as misdemeanors, or as wobblers when committed after entering an inhabited dwelling without

consent. In interpreting the inhabited dwelling provision in Penal Code § 647.6, the appellate court in *People v. Mendoza* (2004) 118 Cal.App.4th 571, 574 provided the following background and rationale of the amended laws:

The dwelling house provision was added to section 647.6 (then section 647a) in 1982 by the same enactment that added identical language to California's indecent exposure law, section 314. (Stats. 1982, ch. 1113, §§ 2–3, p. 4032.) By this amendment, the Legislature treated residential indecent exposure and child molestation more seriously than such acts occurring in other environments “in recognition of the sanctity of one's residence and the inherent danger presented by residential intruders.” (*People v. Rehmeier* (1993) 19 Cal.App.4th 1758, 1768 [24 Cal.Rptr.2d 321] [discussing legislative intent underlying amendment to section 314].)

While the court found that the act does not need to occur inside the inhabited dwelling to warrant a conviction, only that the act occur after entry into an inhabited dwelling without consent, the court ruled that “a clear nexus between the residential entry and the molesting conduct is required.” (*Id.* at p. 576.) The court went on to say that “if the Legislature had meant to require that the offense occur *within* the dwelling in order to qualify as a felony, it easily could have said so.” (*Ibid.*)

This raises a concern that the bill, when considered alongside existing law, renders the offense considered here too vague. What is a “clear nexus between the residential entry and the molesting conduct”? If someone enters a home as an uninvited guest at a dinner party, then commits sexual battery days later outside the structure, would they be guilty of this crime? To address this concern, the Committee may consider limiting the bill to only apply to conduct that occurs while trespassing inside the dwelling structure, where there is a heightened expectation of privacy. Additionally, the Committee may consider imposing an intent requirement, similar to burglary, such that the person must enter the home with the intent of committing sexual battery.

Additionally, by punishing this type of sexual battery as a wobbler, this bill could also indirectly expand the circumstances under which first degree burglary could be charged because the burglary statute punishes the entering of an inhabited dwelling with the intent to commit a felony.

5. Argument in Support

The Riverside District Attorney's Office writes:

Under existing Penal Code provisions, individuals who break into a residence and commit sexual touching face inadequate consequences. While burglary statutes and certain sex offense statutes provide strong penalties, they fail to cover scenarios where an offender enters a home and commits sexual battery without intent to steal or commit another felony.

For instance, under Penal Code section 647.6 (annoy/molest a child) and Penal Code section 314 (indecent exposure), if an individual breaks into a victim's home and commits these sex offenses, they may be charged with a felony wobbler offense. By contrast, if an individual breaks into a victim's home and sexually touches the victim (Penal Code 243.4), they cannot be charged with a felony wobbler offense. Unless the victim is under 15, or we can prove there was

restraint or an intent to commit rape, this sex offender can only be charged with misdemeanor sexual battery. Quite simply, this makes no sense.

As prosecutors, we have encountered cases where an assailant breaks into a victim's home at night and gropes a sleeping victim. In one such Riverside County case, a victim was asleep in her bedroom with her husband when an unknown male entered their apartment via a sliding glass door. The victim awoke to the unknown male rubbing her buttocks. Due to current limitations in the statute, this egregious act could only be prosecuted as a misdemeanor. This loophole undermines public safety and denies justice to victims of deeply invasive crimes.

AB 1741 closes this loophole by amending Penal Code Section 243.4 to allow felony wobbler charges when sexual touching occurs after a residential break-in. This change ensures that prosecutors have the necessary tools to pursue the proper penalties for offenders who violate a victim's bodily autonomy within their most sacred haven – home.

6. Argument in Opposition

The California Public Defenders Association writes:

Under the scenario offered by the bill's sponsors, "An assailant breaks into a victim's home who is sleeping and sexually touches the victim" individuals are charged everyday by prosecutors in California with a violation of Penal Code section 220 (assaulting another with the intent to commit mayhem, rape, sodomy, oral copulation) which is punishable by two, four or six years in state prison. It is also frequently charged as an attempted rape. As public defenders who represent 80-90% of all criminal defendants in California we have a unique overview of the charging of criminal offenses.

We also oppose this bill because it is vague on temporal and definitional grounds creating a potential felony requiring sex registration and punishable with up to four years in prison even if the person entered the inhabited dwelling without the intent to commit a sexual battery and the sexual battery occurs hours or days after the person entered the dwelling. By contrast, to be guilty of a residential burglary, the person must enter an inhabited dwelling with the intent to commit a felony or theft offense at the time of the entry.

AB 1741 is overbroad casting too large of a net. A misdemeanor sexual battery can include relatively minor contact, including an unwanted kiss or pressing too close to a dance partner while dancing. In a very common scenario for young adults, a person will attend a large party at the home of someone they do not know, along with a group of friends. If later at the party the person commits a misdemeanor sexual battery at the party – and unwanted kiss or attempting to "grind" another person on the dance floor, their misdemeanor conduct could be charged as a felony simply because it occurred inside of a house and the owner did not expressly consent to the person being in the house.