
SENATE COMMITTEE ON PUBLIC SAFETY

Senator Steven Bradford, Chair

2021 - 2022 Regular

Bill No: SB 1493 **Hearing Date:** April 26, 2022
Author: Committee on Public Safety
Version: April 19, 2022
Urgency: No **Fiscal:** Yes
Consultant: SC

Subject: *Public safety omnibus*

HISTORY

Source: Various

Prior Legislation: SB 827 (Committee on Public Safety, Chapter 434, Stats. 2021
SB 781 (Committee on Public Safety Chapter 256, Stats. 2019
SB 1494 (Committee on Public Safety) Chapter 423, Stats. 2018
SB 811(Committee on Public Safety) Chapter 269, Stats. 2017
SB 1474 (Committee on Public Safety) Chapter 59, Stats. 2016
SB 795 (Committee on Public Safety) Chapter 499, Stats. 2015
SB 1461 (Committee on Public Safety) Chapter 54, Stats. 2014
SB 514 (Committee on Public Safety) Chapter 59, Stats. 2013
SB 1144 (Strickland) Chapter 867, Stats. 2012
SB 428 (Strickland) Chapter 304, Stats. 2011
SB 1062 (Strickland) Chapter 708, Stats. 2010
SB 174 (Strickland) Chapter 35, Stats. 2009
SB 1241 (Margett) Chapter 699, Stats. 2008
SB 425 (Margett) Chapter 302, Stats. 2007
SB 1422 (Margett) Chapter 901, Stats. 2006
SB 1107 (Committee on Public Safety) Chapter 279, Stats. 2005
SB 1796 (Committee on Public Safety) Chapter 405, Stats. 2004
SB 851 (Committee on Public Safety) Chapter 468, Stats. 2003
SB 1852 (Committee on Public Safety) Chapter 545, Stats. 2002
SB 485 (Committee on Public Safety) Chapter 473, Stats. 2001
SB 832 (Committee on Public Safety) Chapter 853, Stats. 1999
SB 1880 (Committee on Public Safety) Chapter 606, Stats. 1998

Support: Unknown

Opposition: None known

PURPOSE

The purpose of this bill is to make technical and non-controversial changes to various code sections relating generally to criminal justice laws, as specified.

Existing law requires each state and local agency that employs peace officers to annually report to the Attorney General (AG) data on all stops conducted by that agency's peace officers for the preceding calendar year. (Gov. Code, §12525.5.)

Existing law requires that the report shall include at minimum the following:

- The time, date, and location of the stop;
- The reason for the stop;
- The result of the stop, such as, no action, warning, citation, property seizure, or arrest;
- If a warning or citation was issued, the warning provided or violation cited.
- If an arrest was made, the offense charged;
- The perceived race or ethnicity, gender, and approximate age of the person stopped, provided that the identification of these characteristics shall be based on the observation and perception of the peace officer making the stop, and the information shall not be requested from the person stopped. For motor vehicle stops, this paragraph only applies to the driver, unless any actions were taken by the peace officer that apply in relation to a passenger, in which case the characteristics specified in this paragraph shall also be reported for that passenger; and,
- Actions taken by the peace officer during the stop. (Gov. Code, §12525.5, subd. (b).)

This bill requires for the data on if an arrest was made, that instead of the offense charged, the information reported should include the offense for which the person was cited, or the offense upon which the person was booked.

Existing law establishes certain minimum standards for public officers or employees declared by law to be peace officers. The minimum education requirement is high school graduation, passing an equivalency test or high school proficiency examination, graduating from a private high school, or attaining a 2-year, 4-year, or advanced degree from an accredited institution. Existing law requires that accreditation must be from a body recognized by the United States Department of Education or holding a full membership in specified organizations. (Gov. Code, § 1031.)

This bill would revise the accreditation standards for high schools, colleges, and universities to include those holding a full membership in Cognia.

Existing law authorizes the California Victim Compensation Board to reimburse any individual who voluntarily, and without anticipation of personal gain, pays or assumes the obligation to pay the reasonable costs to clean the scene of the crime in an amount not to exceed \$1,000. Services reimbursed pursuant to this subdivision shall be performed by persons registered with the State Department of Public Health as trauma scene waste practitioners. (Gov. Code, § 13957, subd. (a)(9).)

This bill instead requires that those clean-up services be performed by any person professionally licensed to perform services related to cleaning a crime scene.

Existing law makes various provisions relating to battered women's shelters, including, among others, authorizing a court, for specified crimes, to, in lieu of a fine, require that the defendant make payments to a battered women's shelter. (Pen. Code, § 243; 602; 1203.097; 11163.3)

This bill would instead make those provisions apply to domestic violence shelter-based programs.

Existing law authorizes a court, if the defendant fails to appear in person in a misdemeanor case as specified, to continue the matter, order bail revoked or revoke release on the defendant's own recognizance, issue a bench warrant, or proceed with the trial in the defendant's absence under specified circumstances in which the defendant is in custody and is refusing to appear in court. (Pen. Code, § 1034.)

This bill additionally authorizes the court, if the defendant is not in custody, to proceed with the trial if the court finds the defendant has absented themselves voluntarily with full knowledge the trial is to be held or being held.

Existing law requires that, as a condition of parole, a prisoner who has a severe mental health disorder, as defined, be treated by the State Department of State Hospitals (DSH). (Pen. Code, § 2962.)

Existing law permits the AG to furnish state summary criminal history information, as defined, to specified individuals, organizations, and agencies upon a showing of compelling need. Existing law makes it a misdemeanor for a person authorized to receive the state criminal history information to furnish the information to an unauthorized person. (Pen. Code, § 11105.)

This bill additionally permits the AG to furnish that information to the Governor when the Governor recommends to the Director of the Selective Service System applicants for appointment to the state's Selective Service System local boards.

Existing law authorizes a judge of the juvenile court in which a petition was filed to dismiss the petition, or set aside the findings and dismiss the petition, if the court finds that the interests of justice and the welfare of the minor require that dismissal, or if the court finds that the minor is not in need of treatment or rehabilitation, regardless of whether the minor is, at the time of the order, a ward or dependent child of the court. (Welf. & Inst. Code, § 782.)

This bill eliminates the requirement that a petition may only be dismissed by the court in which a petition was originally filed and instead authorizes a judge of the juvenile court having jurisdiction over the petition, as specified, to dismiss the petition.

Existing law specifies the circumstances under which a crime that is punishable, in the discretion of the court, as a felony or as a misdemeanor is a misdemeanor. (Pen. Code, § 17.)

This bill authorizes a judge of the juvenile court, when a youth is alleged to have committed an offense that could be punishable as a felony or as misdemeanor, to determine whether a case should proceed as a misdemeanor at any point in the adjudication of a petition.

This bill makes additional technical and clarifying changes.

COMMENTS

1. Purpose of This Bill

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 introduction of fewer minor bills and has saved the Legislature time and expense over the years.

2. Preserve ability of court to find voluntary absence for out of custody defendants during trial proceedings

This bill adds clarifying language to Penal Code section 1043 to ensure that in custody defendants are treated differently than out of custody for purposes when the defendant fails to appear during trial proceedings. Existing law provides that if the defendant is absent during trial, the court is authorized to proceed with the trial. This provision, which was added by AB 700 (Cunningham), Chapter 196, Statutes of 2021, was meant to apply only to in custody defendants. This bill clarifies that this provision applies to in custody defendants and adds another paragraph that specifies that if the defendant is out of custody, the court may "proceed with the trial if the court finds that the defendant has absented himself or herself voluntarily with full knowledge that the trial is to be held or is being held."

AB 700 was worked on by the California Public Defenders Association and the California District Attorneys Association. There was never an intention to change long-standing existing law authorizing a court to proceed in a misdemeanor case when an out-of-custody defendant who is present at the start of the trial or preliminary hearing fails to appear in the middle of trial. Inadvertently, this authority in misdemeanor cases was eliminated by a cross-reference to subdivision (f) that was added to subdivision (e) in amended Penal Code section 1043 by AB 700. The purpose of AB 700 was to allow the court to proceed under 1043 or 1043.5 subject to the various conditions but only when the defendant was not present on the first day. Indeed, one of the reasons that subdivision (f)(4) ["(4) This subdivision does not apply to any trial in which the defendant was personally present in court at the commencement of trial."] was included was to make it clear that new subdivision (f) only applied when the defendant was not present on the first day of trial or at the preliminary hearing. However, because some language from Penal Code section 1043(e)(4) which authorized proceeding in defendant's voluntary absence after trial has started was deleted, the authority to proceed in defendant's absence became dependent on subdivision (f), which requires the court to find that the defendant is in custody and requires that the defendant be given specific warnings and advice. Obviously, an out-of-custody defendant who fails to appear will not be available for warnings and advice. And of course, an out-of-custody defendant cannot be found by the court to be in custody – which is required for subdivision (f) to apply. So now, no subdivision applies to allow a misdemeanor trial to proceed

when an out of custody defendant who was present when the trial flees after trial has started. The inadvertent error did not impact the ability to proceed in a felony case in that circumstance. Penal Code Section 1043(e)(4) should be amended to restore the authority inadvertently eliminated. The proposed language in section Penal Code 1043(e)(4)(ii) about voluntary absence is how section 1043(e)(4) read before AB 700 amended it.

3. Add references to “mandatory supervision” to existing provisions on probation

The amendments to Penal Code sections 1203.9 and 13151 add references to “mandatory supervision” in existing laws that currently only reference “probation.”

In Penal Code section 1203.9, paragraph (5) to subdivision (a) refers only to “probation” even though, pursuant to Penal Code section 1203.9, both probation and mandatory supervision can be transferred from one county to another. This may be a drafting error. The purpose of AB 898 is to make sure that when the Department of Justice (DOJ) grants conviction record relief pursuant to Penal Code section 1203.425, both the transferring court/county and the receiving court/county know about it, so that their records are accurate. It seems logical that the same amendments should also apply to the transfer of mandatory supervision, so that the records of transferring and receiving courts and counties in those cases are accurate.

Penal Code section 13151 requires courts to ensure that the disposition of certain cases be furnished to DOJ. It requires courts to report the transfer of probation pursuant to Section 1203.9. It should also require courts to report transfers of mandatory supervision pursuant to Section 1203.9.

4. Former spousal rape offenses

AB 1171 (Garcia), Chapter 626, statutes of 2021, repealed Penal Code section 262 (spousal rape) and incorporated it into Penal Code section 261. Numerous conforming amendments were made to other code sections, either deleting “262” altogether or adding the word “former” in front of “262.” In a few statutes, the statute should have been amended to substitute “former 262” for 262 instead of eliminating any reference to 262. This is because, despite the repeal of section 262, there will be prosecutions for a violation of section 262 in the future based on crimes that were committed before 2022 (e.g., if a defendant committed a violation of section 262 prior to 2022 but the defendant was not yet arrested or prosecuted). It is important that these ancillary statutes be clear that they still apply even if those cases do not get to court until after January 1, 2022. The following sections should be modified to add in the word “former” in front of section 262 instead of eliminating the reference to section 262 altogether.

5. Changes in law that were approved in last year’s public safety omnibus bill that did not go into effect

Section 29 of SB 847 (public safety omnibus bill last year) provides that other bills prevail regardless of chapter order. These amendments did not go into effect because of other chaptered bills that affected the same sections.

The affected sections include Penal Code sections 1203.4b and 11105, and Government Code section 1031.

6. Juvenile Proceedings: Court’s authority to dismiss a petition and to reduce a “wobbler” to a misdemeanor

This bill adds clarifying provisions to specify that a court has the ability to dismiss a petition for which the court has taken jurisdiction, whereas under existing law the court appears only to have the ability to dismiss a petition if the petition was originally filed in that court’s jurisdiction.

This bill also adds language to specify that if a petition filed in the juvenile court alleging that a youth has committed an offense which would, in the case of an adult, be punishable alternatively as a felony or a misdemeanor, the court, subject to a hearing, at any stage of a proceedings, may determine that the offense is a misdemeanor, in which event the case shall proceed as if the youth had been brought before the court on a misdemeanor petition. Existing law, Penal Code section 17, authorizes a court to determine that an offense, which can be charged as either of felony or a misdemeanor, is either a misdemeanor or felony. This statute has been interpreted to also apply to juvenile proceedings. Existing California Rule of Court 5.795 also requires the court to make this determination for youth who commit a wobbler offense. This bill adds language to the Welfare and Institutions code that applies the same principles as Penal Code section 17 but specific to juvenile proceedings.

7. Reporting to DOJ: Law Enforcement Stop data

Existing law, pursuant to the Racial and Identity Profiling Act (RIPA), requires each state and local agency that employs peace officers shall annually report to the Attorney General data on all stops conducted by that agency’s peace officers for the preceding calendar year. One of the data points required to be reported include “if an arrest was made, the offense charged.”

This language is confusing because the prosecutor decides whether and what to “charge” an individual with while the officer would decide which offense(s) to cite or book an individual for. This bill clarifies by requiring reporting of the offenses for which the person was cited or the offenses upon which the person was booked.

8. Victim Compensation for Crime Scene Clean Up

Existing law allows a victim to receive compensation for assuming the obligation to pay the reasonable costs to clean a crime scene, in an amount not to exceed \$1,000. Existing law specifies that the California Victim Compensation Board may only reimburse expenses for crime-scene cleanup provided by persons registered with the State Department of Public Health as trauma waste practitioners in accordance with Chapter 9.5 of the Health and Safety Code. However, many of the claims submitted for this benefit do not involve the cleanup of biohazard materials. This proposal would allow any provider that is professionally licensed to perform services that are applicable to the cleaning of a crime scene to be reimbursed.

Broadening who may perform these services will allow victims a greater range of options when choosing their service provider.

9. Other changes

This bill makes a number of other technical or clarifying changes. These changes include deleting erroneous cross-references or making other corrections such as missing words and updating gender-specific pronouns or outdated terminology.