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# SENATE COMMITTEE ON PUBLIC SAFETY

Senator Steven Bradford, Chair  
2021 - 2022 Regular

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**Bill No:** SB 827                      **Hearing Date:** April 27, 2021  
**Author:** Committee on Public Safety  
**Version:** April 15, 2021  
**Urgency:** No                                      **Fiscal:** Yes  
**Consultant:** MK

**Subject:** *Public Safety Omnibus*

## HISTORY

**Source:** Various

**Prior Legislation:** 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* bans the possession of nunchaku. (Penal Code Sections 22010; 22015; 22090)

*This bill* deletes the prohibition on possession of a nunchaku and adds a definition of billy, blackjack or slugshot as not including a nunchaku.

*Existing law* sets forth rules and regulations governing the Board of Parole Hearings (Penal Code Sections 5706.2; 5706.2; 5705.)

*This bill* makes a number of technical amendments to update these provisions to adequately reflect current practice and to address legal conflicts.

*Existing law*, which is now obsolete, allows a juvenile offender who was direct filed upon in adult court and then ultimately convicted of something not eligible for direct file to request that his sentencing/disposition be sent back to juvenile court. (Penal Code Section 1170.17)

*This bill* deletes Penal Code Section 1170.17.

*Existing law* creates a Youth Offender Program at the Department of Corrections. (Penal Code Section 2905)

*This bill* streamlines the process for a youth offender to be placed in the youth offender program at the Department of Corrections.

*Existing law*, which has been found invalid by a court, provides for the seizure of an animal being mistreated in a public place. (Penal Code Section 597f)

*This bill* deletes Penal Code Section 597f.

*This bill* makes a number of technical changes in other provisions.

## COMMENTS

### 1. Purpose of This Bill

This is the annual 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. Nunchaku

The ban on nunchaku was implemented in 1974 when there was a perception that Kung Fu movies and shows were creating a danger in America. Bruce Lee first used the nunchaku in the television show “The Green Hornet,” and later as a seminal weapon in films in 1972 and 1973. The New York Times reported that hysteria regarding the danger of the nunchaku arose accordingly: “A 1973 article in The New York Times reported nunchaku ‘turning up in the hands of youths in Los Angeles, San Francisco and San Diego.’” The Los Angeles Times reported that the Los Angeles Police Department was making arrests and opining that their efforts were not curtailing possession of nunchakus by 12- and 13-year-olds.

Many California cases involving nunchaku are prosecuted based only on possession, and these cases often involve a minor. Considering the wide range of uses, coupled with the ease of ordering nunchaku online, there is a high risk that individuals are unwittingly violating the law by mere possession of an object that is commonly used and lawful to possess in most of the country. This also puts a person on probation at risk of being in violation of their probation. This bill would ensure that a person punished for misuse of a nunchaku actually used the object in a dangerous way.

## 3. Changes to sections related to Board of Parole Hearings

CDCR believes this proposal is necessary to eliminate conflicts in the law and avoid legal challenges to administrative actions taken by the BPH and its executive officer during the normal course of business.

PC §5076.1: When BPH performs its functions by en banc meetings, under public or executive sessions, existing law requires BPH to decide matters of general policy with at least seven members present, and no action is valid without a majority vote of those present. [PC §5076.1(a)]. This proposal would amend PC §5076.1(a) and (b) to state that BPH decisions are to be made by a majority of commissioners holding office on the date a matter is heard by the BPH, which is consistent with PC §3041(e). This proposal would also amend PC §5076.1(c) to remove the process of BPH referring a tie vote to a randomly selected committee given that BPH currently refers these matters to the full BPH sitting en banc as required by PC §3041(e). Third, this proposal would amend PC §5076.1(d) to conform with PC §1170(e) by eliminating BPH’s authority to recommend a recall of a sentence under the compassionate release process.

PC §5076.2: This proposal would amend PC §5076.2(a), (b), and (c) to change the reference of “Board of Prison Terms” to reflect the current title of the “Board of Parole Hearings.” In addition, this proposal would amend PC §5076.2(c) to replace the term “chairperson” with “executive officer” which would be consistent with our proposed amendment to PC §5075 noted above. These amendments are needed to ensure that the BPH and its executive officer have the ability to promulgate rules and regulations.

PC §5076.3: This proposal would amend PC §5076.3 to replace the term “Chairman” with “executive officer” and “Board of Prison Terms” with “Board of Parole Hearings” for the purpose of maintaining consistency within the statutes. In addition, this amendment would clarify that the BPH’s executive officer has the administrative authority to issue subpoenas.

#### 4. Penal Code section 1170.17

Penal Code Section 1170.17 allows a juvenile offender who was direct filed upon in adult court and then ultimately convicted of something not eligible for direct file to request that his sentencing/disposition be sent back to juvenile court. However, the statute is now obsolete because of Proposition 57 but it hasn't been repealed. To make the law consistent with Proposition 57, the legislature enacted a new statute to allow something similar in Welfare and Institutions Code section 707.5, but didn't also repeal the obsolete statute (AB 1423).

#### 5. Youth offenders

This proposal amends Penal Code (PC) §2905 to streamline the placement process for the Youth Offender Program (YOP) at the California Department of Corrections and Rehabilitation (CDCR). These amendments would allow any classification committee—not just an Institutional Classification Committee (ICC)—to place an eligible youth offender in the YOP.

CDCR currently utilizes multiple classification committee types, such as the Initial Classification Committee; Unit Classification Committee (UCC); Camp Classification Committee (CAMP); Institution Classification Committee (ICC); Departmental Review Board (DRB); Security Threat Group (STG UCC); Reception Center (CCII Approval); and Reception Center Extended Stay Review. Some are specifically designated for the General Population institutions and some specifically designated for the Reception Center institutions, all with various functions.

Whereas the UCC is the most common type of committee at the General Population institutions, ICCs are used most for complex cases. The primary function of ICCs are to recommend transfers of inmates; act on cases referred by lower committees; review requests for meritorious sentence reductions; and make referrals and recommendations through the Chief of the Classification Services Unit (CSU) at the Division of Adult Institutions (DAI) for cases requiring DRB decisions. The ICC is the highest level of committee at the institution. Only an ICC may refer cases to the Classification Staff Representative for placement/retention in segregated housing, such as the Administrative Segregation Unit (ASU), Security Housing Unit (SHU), Psychiatric Services Unit (PSU), and Non-Disciplinary Segregation (NDS).

For all ICC's the composition consists of: Chairperson (Warden, Regional Parole Administrator, Chief Deputy Warden or Deputy Regional Parole Administrator); Alternate Chairperson (Correctional Administrator or Parole Administrator I); Psychiatrist or Physician; Facility Captain; Recorder (Correctional Counselor III, Parole Agent III, Correctional Counselor II, or Parole Agent II); Assignment Lieutenant; Educational or Vocational representative; and other staff as required.

This proposal will revise the placement framework so that CDCR's highest level of classification committee is not needed in order for a youth offender to be placed into the YOP. The youth offender population is predominately of a lower security level and does not always need a YOP ICC for special classification consideration. This is consistent with the steps being taken by CDCR to place youth offenders in the YOP whenever they satisfy eligibility criteria. Given the high likelihood of placement, and clear exclusionary criteria (serious disciplinary behavior within the past 12 months), it is not necessary—and is administratively wasteful—to require ICC to consider every youth offender during reception center processing. For example, even if there is disciplinary behavior that would automatically disqualify an individual from YOP placement,

thus negating the need for review by an ICC, current statute requires that the ICC still convene. Additionally, the number of CDCR reception centers was recently reduced from five to three statewide. The result is increased workload for the remaining reception centers, which can lead to longer lengths of-stay and processing times without commensurate benefit. Eliminating YOP ICC review of every youth offender will save staff time and resources, remove unnecessary bureaucracy and support faster reception center processing for all youth offenders. This change will improve administrative efficiency, while expediting the placement of youth offenders into YOP from reception centers.

#### **6. Amendments to Penal Code Section 422.77**

In 2018, amendments to the Bane Act (AB 3250) created a new subdivision (a) and adjusted all other subdivisions to their next letter. However, the references to the various subdivisions within Penal Code § 422.77 were not corrected to reflect the new subdivision letters. This changes the references to the new subdivision letters.

#### **7. Deletion of Penal Code 597f.**

The California Court of Appeals in *Carrera v. Bertaini*, 63 Cal. App. 3rd 721 (1976) held that paragraph (a) does not contain sufficient due process because there is no requirement for a post-seizure hearing. Since this decision, law enforcement and prosecutors no longer use 597f. Instead they rely on 597.1, which contains the remaining provisions in 597f and provides for a post-seizure hearing. Therefore, there is no reason for 597f to remain on the books.

This section was actually in the omnibus bill in 2019, but was chaptered out by another bill.

#### **8. Other changes**

This bill makes a number of other technical changes.

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