
SENATE COMMITTEE ON PUBLIC SAFETY

Senator Aisha Wahab, Chair

2023 - 2024 Regular

Bill No: SB 883 **Hearing Date:** April 25, 2023
Author: Committee on Public Safety
Version: April 18, 2023
Urgency: No **Fiscal:** Yes
Consultant: SC

Subject: *Public Safety Omnibus*

HISTORY

Source: Various

Prior Legislation: SB 1493 (Committee on Public Safety), Ch. 197, Stats. 2022
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 reason given to the person stopped at the time of 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 defines manslaughter as the unlawful killing of a human being without malice, and includes within the definition three types: voluntary, involuntary, and vehicular. (Pen. Code, § 192.)

Existing law states that “gross negligence” for purposes of vehicular manslaughter may include, based on the totality of the circumstances, any of the following:

- Participating in a sideshow;
- An exhibition of speed;
- Speeding over 100 miles per hour. (Pen. Code, § 192, subd. (e)(1).)

This bill removes exhibition of speed from this definition and adds engaging in a motor vehicle speed contest, as defined.

Existing law states that an incarcerated person who successfully participates as an incarcerated hand crew member in the California Conservation Camp program or in a county incarcerated hand crew, or participates at a Department of Corrections and Rehabilitation institutional firehouse is, upon release, eligible for record expungement, as specified. (Pen. Code, § 1203.4b.)

This bill specifies that participation in an institutional firehouse must also be successful, as specified, to be qualifying and makes other nonsubstantive clarifying changes to this provision.

Existing law states that it is unlawful for a person to purchase, sell, offer to sell, or transfer ownership of any firearm precursor part in this state that is not a federally regulated firearm precursor part (also known as a ghost gun). (Pen. Code, § 30400.)

This bill clarifies that a violation of the above prohibition is a misdemeanor punishable by imprisonment in the county jail not exceeding six months, or by fine not exceeding \$1000 or both.

Existing law requires the State Public Defender to undertake a study to assess appropriate workloads for public defenders and indigent defense attorneys and submit a report with their findings and recommendations to the Legislature no later than January 1, 2024. This law is set to be repealed on January 1, 2028. (Gov. Code, § 15403.)

This bill would instead make the report due January 1, 2025 and repeal the law on January 1, 2029.

Existing law requires the Attorney General to annually collect information relating to anti-reproductive-rights crimes from local district attorneys and elected city attorneys and beginning 2023, report to the Legislature on an annual basis the information collected. (Pen. Code, § 13777.)

This bill would require that information to be collected monthly and annual reporting to the Legislature to begin 2025.

Existing law establishes the jurisdiction of the juvenile court over minors who are between 12 and 17 years of age, inclusive. (Welf. & Inst. Code, § 602.)

Existing law states that whenever a case is before any court and it appears to the judge that the person charged was, at the date the offense was alleged to have been committed under the age of 18, the judge shall immediately suspend all proceedings against the person and examine into the age of the person. If it appears to the judge's satisfaction that the person was under 18 years of age at the time of the offense alleged, the judge shall certify the findings and have the accusatory pleading transmitted to the clerk of the juvenile court. (Welf. & Inst. Code, § 604, subd. (a).)

This bill would, for a person whose case has been certified to a juvenile court and who is granted a record sealing in juvenile court, require all criminal court records associated with that record to also be sealed.

Existing law states that a defendant may demur to the accusatory pleading at any time prior to the entry of a plea, when it appears upon the face thereof either:

- If an indictment, that the grand jury by which it was found had no legal authority to inquire into the offense charged, or, if an information or complaint that the court has no jurisdiction of the offense charged therein;
- That it does not substantially conform to the provisions of [Sections 950](#) and [952](#) , and also [Section 951](#) in case of an indictment or information;

- That more than one offense is charged, except as provided in [Section 954](#) ;
- That the facts stated do not constitute a public offense;
- That it contains matter which, if true, would constitute a legal justification or excuse of the offense charged, or other legal bar to the prosecution.

This bill adds that the statutory provision alleged in the accusatory pleading is constitutionally invalid.

This bill makes other technical or corrective changes.

This bill contains a savings clause to provide that any act enacted by the Legislature during the 2023 calendar year that amends this act shall prevail over this act, whether the act is enacted before, or subsequent to, the enactment of this act.

COMMENTS

1. Need for 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. 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.

3. DOJ Reporting of Anti-Reproductive Rights Crimes

Existing law, pursuant to AB 1356 (Bauer-Kahan, Chapter 191, Statutes of 2021) requires DOJ to report newly collected data to the Legislature annually, beginning January 1, 2023. That requires data collection to begin on January 1, 2022. While the DOJ is able to make the necessary changes to the California Incident Based Reporting System (CIBRS) in a six-month

timeframe, upon allocation of resources, local authorities required to report the data – LEAs, District Attorneys, and others – would not be able to begin reporting as soon as the project is completed.

Local reporting authorities would have to implement the new data reporting requirements into their own systems and receive training developed by the DOJ. There is no firm timeline on how long this could take, and each local reporting authority would have separate timelines for completion. Thus, while the DOJ could begin reporting to the Legislature as early as 2024, the DOJ would not be able to guarantee a set of complete data representative of an entire year from each reporting authority. Due to these limitations, the earliest a report containing a complete year of data could be submitted is 2025.

Removal of the January 1 reporting deadline is necessary to align this report with the current Criminal Justice Statistics Center (CJSC) publication cycle, as this would likely be positioned in the DOJ's Crime in California publication. AB 2524 (Irwin, Chapter 418, Statutes of 2016) removed the publication deadline of July 1 specifically to allow for flexibility in reporting sooner and more frequently as the technology becomes available. Further, the CJSC would be unable to report the data in January as the collection effort from reporting authorities would not yet be completed.

This bill would require that information to be collected monthly and annual reporting to the Legislature to begin 2025.

4. Clarifying Punishment for Violation of Ghost Gun Prohibition

Existing law prohibits a person from purchasing, selling, offering to sell, or transferring ownership of a ghost gun. In 2022, the statute prohibiting a person from purchasing, selling, offering to sell, or transferring ownership of a ghost gun was repealed and a new version was added. While the crimes in the old version were clearly misdemeanors and specified the punishment (imprisonment for up to 6 months and a fine of up to \$1000), the new version is silent about punishment and says nothing about whether the crime is a misdemeanor or felony.

This bill clarifies that a violation of the new version of the statute is a misdemeanor, punishable by imprisonment for up to 6 months in county jail and a fine of up to \$1000.

5. Clarification for Successful Completion of Fire Camp

Penal Code section 1203.4b authorizes expungement of a person's conviction following successful completion of a fire camp. This bill clarifies that participation in an institutional firehouse must also be successful.

6. "Gross Negligence" for Purposes of Vehicular Manslaughter

Existing law defines "gross negligence" for purposes of vehicular manslaughter. The definition of "gross negligence" includes an exhibition of speed but references Vehicle Code section 23109 (a) which prohibit speed contests. It is not clear whether the drafters intended to specify Vehicle Code section 23109, subdivision (a) speed contests or Vehicle Code section 23109, subdivision (c) exhibition of speed.

The bill specifies removes exhibition of speed from this definition and adds engaging in a motor vehicle speed contest to remove the inconsistency.

7. Unconstitutional Allegations

The California Supreme Court has repeatedly held that Penal Code section 1004 is the proper vehicle for a defendant to challenge a facially unconstitutional allegation. The current language of section 1004 does not, however, expressly state the same, instead referring vaguely to a challenge based on a “legal bar” to prosecution.

This bill adds when the “the statutory provision alleged in the accusatory pleading is constitutionally invalid.” This clarification would make the statute consistent with the Supreme Court’s long-standing holding and the requirements of constitutional law. (See, e.g., *People v. Superior Court (Caswell)* (1988) 46 Cal.3d, 381 [defendant has the right to demur on constitutional grounds before trial]; *Johnson v. United States* (2017) 576 U.S. 591, 596 [constitutional prohibitions against vagueness “apply not only to statutes defining elements of crimes, but also to statutes fixing sentences”]; *People v. Bow* (1993) 13 Cal.App.4th 1551, 1553 [a demurrer must be sustained when a penalty-enhancing allegation is unconstitutionally vague]; *People v. Equarte* (1986) 42 Cal.3d 456, 466 [same]; *People v. Thomas* (1986) 41 Cal.3d 837, 843 [same].)

8. Juvenile Record Sealing

On occasion, a person is charged in criminal court where it is later learned the person was a minor at the time of the offense. There is currently no existing legal mechanism for a youth that has been certified back to Juvenile Court pursuant to section 604 of the Welfare and Institutions Code to seal any criminal booking or court records that stemmed from their booking into the local county jail, or to seal records of proceedings in adult court prior to the certification. As such, a youth who would eventually obtain a juvenile record sealing for that matter would still have the offense show on adult “rap” sheets and in criminal court and law enforcement records relating to the suspended criminal court prosecution.

This bill provides that if the person whose case has been certified to a juvenile court is granted a record sealing in juvenile court, all criminal court records associated with said record must also be ordered sealed.

9. Other Technical Changes

This bill makes other technical or corrective changes.

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