

Sexual Assault Bills

CA Legislative Session 2021

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SIGNED ASSEMBLY BILLS

AB 46 – California Youth Empowerment Act

AB 46 (Rivas), also known as the California Youth Empowerment Act, creates a new statewide advisory commission to examine and discuss policy issues affecting the needs, interests, and conditions of the youth of California that will begin meeting in August 2022. The commission specifically is charged to make recommendations to the Legislature, Superintendent, and Governor regarding child sexual abuse. The bill was signed by the Governor on October 8, 2021.

AB 118 – Community Response Initiative to Strengthen Emergency Systems (C.R.I.S.E.S.)

AB 118 (Kamlager) creates the Community Response Initiative to Strengthen Emergency Systems (C.R.I.S.E.S.) Grant Pilot Program for the purpose of funding community-based alternatives to law enforcement, including campus police. “Community-based alternatives” can include mobile crisis response teams or community para-medicine programs, but may not include law enforcement officers or agencies as first responders or co-responders. All \$250K grants are required to be awarded by January 1, 2023, and the program is currently set to end on June 30, 2026. The bill was signed by the Governor on October 8, 2021.

AB 124 – Vacatur Relief

AB 124 (Kamlager) expands current law to provide vacatur relief for people arrested for or convicted of nonviolent offenses that were direct result of being a victim of intimate partner violence or sexual violence. It also expands the use of an affirmative defense against the charge of crimes that a person was coerced to commit as a direct result of being a victim of IPV or SV. The bill was signed by the Governor on October 8, 2021 and takes effect on January 1, 2022.

AB 262 – Vacatur Relief

AB 262 (Patterson) prohibits courts in California from refusing to hear a human trafficking victim’s petition for vacatur relief due to the person owing fines and fees, or the person’s failure to meet the conditions of probation. It was signed by the Governor on September 22, 2021.



AB 277/AB 611 – “Safe at Home” Program

AB 277 (Valladares) improves California’s “Safe At Home” program, protecting address confidentiality for victims of DV, SA, stalking, human trafficking, or elder abuse, by expanding language access for applicants to the program. It was signed by the Governor on October 4, 2021, and takes effect on January 1, 2023. Additionally, AB 611 (Quirk-Silva) updates the program to require homeowners’ associations to use a survivor’s confidential address. It was signed by the Governor on August 31, 2021.

AB 341 – Evidence of Sexual Conduct

AB 341 (Boerner-Horvath) expands the procedural definition of what constitutes “evidence of sexual conduct” by the complaining witness in a rape prosecution to include the portions of a social media account about the complaining witness that depicts sexual content. It was signed by the Governor on June 28, 2021.

AB 453 – “Stealthling”

AB 453 (Garcia) expands the civil definition of sexual battery to include the non-consensual removal of a condom during sexual contact, known colloquially as “stealthling”. It only makes “stealthling” a civil offense eligible for financial relief, and does not amend or address the criminal code for sexual battery. The bill was signed by the Governor on October 7, 2021.

AB 518 – Violations Punishable in Multiple Ways

AB 518 (Wicks) changes current law that requires a crime that is punishable in different ways by different laws to be punished under the law that provides for the longest term of imprisonment, to instead be punishable under any provisions. The goal of this legislation is to reduce the required harshness of California’s criminal justice system and instead allow for judicial discretion. It was signed by the Governor on October 1, 2021.

AB 887/SB 538 – Electronic Filing, Restraining Orders

AB 887 (Levine) and SB 538 (Rubio) both increase electronic filing and appearance options for survivors seeking a domestic or gun violence restraining order. They were signed by the Governor on October 8, 2021.

AB 939 – Evidence of Dressing

AB 939 (Cervantes) prohibits courts from ever admitting evidence of the manner in which the victim was dressed during the prosecution of sex crimes. It was signed by the Governor on October 5, 2021, and takes effect on January 1, 2022.

AB 1171 – Rape of Spouse

AB 1171 (Garcia) repeals provisions of state law relating to “spousal rape”, thereby making an act of unlawful sexual intercourse with a spouse punishable as rape if the act would otherwise meet the definition of rape. Necessarily, the bill also requires any person convicted of the crime formerly defined as “spousal rape” to register as a sex offender. It was signed by the Governor on October 7, 2021.

AB 1281 – Protective Orders

AB 1281 (Rubio) specifies that dismissal of a criminal pleading for a conviction in which the offender was granted probation or participated as an incarcerated crew member in the California Conservation Camp program does not invalidate a previously issued protective order. It was signed by the Governor on September 22, 2021, and many of its oversight provisions take effect on July 1, 2022.

AB 1455 – Sexual Assault by Law Enforcement Officers

AB 1455 (Wicks) revives otherwise time-barred civil claims arising out of a sexual assault committed by a law enforcement officer and extends the statute of limitations for filing those claims. It also eliminates the requirement for victims to “present” their claim prior to filing it, and was signed into law by the Governor on October 6, 2021.

AB 1540 – Resentencing

AB 1540 (Ting) makes several changes to criminal procedure related to resentencing, including requiring a presumption for courts to approve a resentencing petition if a recommendation is made by Corrections, the Board of Parole Hearings, Sheriff, or the prosecuting agency. The bill was signed by the Governor on October 8, 2021.

SIGNED SENATE BILLS

SB 2 – De-certifying Officers

SB 2 (Bradford) makes sweeping changes to state processes for certifying law enforcement officers, and for the first time creates a process in California for de-certifying officers who have committed various acts of misconduct, including sexual harassment and assault. It was signed by the Governor on September 30, 2021.

SB 24 – Protective Orders

SB 24 (Cabballero), known as “Calley’s Law” will protect a child’s medical information from being shared with a restrained person while a domestic violence restraining order is in place, and will require certain third parties that provide services to children to adopt additional protocols for protecting it. The bill was signed by the Governor on July 23, 2021.

SB 92 – Reorganization into Secure Youth Treatment Facilities

SB 92 (Budget Committee) provides additional details on the closure of California’s Department of Juvenile Justice and reorganization into local Secure Youth Treatment Facilities. Specifically, it includes technical changes to facilitate the creation of a new independent department within the Health and Human Services Agency, sets June 30, 2023 as the date for full closure of the Department of Juvenile Justice, and requires the creation of a transfer plan for any remaining youth by January 2, 2022. It was signed by the Governor on May 14, 2021.

SB 215 – Electronic Tracking of Status

SB 215 (Leyva) requires that by July 1, 2022, the Department of Justice establish a process that allows sexual assault survivors to track and receive updates privately, securely, and electronically regarding the status, location, and information pertaining to their sexual assault evidence kit in the department's database. It also allows survivors to access this data by July 1, 2022. It was signed by the Governor on October 7, 2021.

SB 248 – Sexually Violent Predator Criteria

SB 248 (Bates) requires the Department of Corrections and Rehabilitation (CDCR) to refer a person directly to the Department of State Hospitals (DSH) for an evaluation as to whether the person still meets the criteria as a sexually violent predator (SVP) if the person is in CDCR for an offense committed while the person was previously serving an indeterminate term in DSH as an SVP. It is intended to close a loophole in the SVPA that "rewards" an individual committed to a state hospital as an SVP for committing a new felony in the hospital with a new opportunity to re-litigate their SVP status. It was signed by the Governor on September 28, 2021.

SB 331 – Ban NDAs in Harassment Cases

SB 331 (Leyva) prohibits the use of non-disclosure agreements (NDAs) to settle employment and housing-related legal claims involving unlawful harassment, discrimination, or related retaliation of any kind, with limited exceptions when requested by the complainant. The bill also prohibits the inclusion, in an employment severance agreement, of terms that prohibit the separated employee from discussing unlawful conduct at their former workplace, unless the separated employee agrees to those terms. It was signed by the Governor on October 7, 2021 and takes effect January 1, 2022.

SB 352 – Military: Sexual Harassment

SB 352 (Eggman) establishes that an offense of sexual harassment by a member of the active militia is punishable by specified military proceedings or by a court-martial, requires the California Military Department (CMD) to report aggregate annual statistics regarding the prevalence of sexual harassment, and clarifies that crimes (including sexual crimes) committed while on active duty are not protected from civil or criminal liability. It was signed by the Governor on September 16, 2021.

SB 374 – Reproductive Coercion

SB 374 (Rubio) adds "reproductive coercion" as an additional example of coercive control which disturbs the peace of another and for which a restraining order may be granted under the Domestic Violence Prevention Act. It defines "reproductive coercion" as controlling the reproductive autonomy of another through force, threat of force, or intimidation, which may include unreasonably pressuring the other party to become pregnant, deliberately interfering with contraception use or access to reproductive health information, or using coercive tactics to control, or attempt to control, pregnancy outcomes. It was signed by the Governor on July 23, 2021.

AB 307 – PULLED BY AUTHOR: Revenge Porn

AB 307 (Lackey) would have expanded existing criminal law on “revenge porn” by removing the requirement that the victim suffer serious emotional distress, and additionally requiring that the offender register as a sex offender. The bill was pulled from consideration at the request of the author on April 13, 2021.

AB 524 – PULLED BY AUTHOR: Campus-Recognized Sorority and Fraternity Transparency Act

AB 524 (Rodriguez) would have created the Campus-Recognized Sorority and Fraternity Transparency Act. The bill would have required campuses to collect and publicize conduct reports for fraternity/sorority members, including citations or disciplinary actions related to sexual assault. Additionally, the bill would have required campuses to suspend recognition of any sorority or fraternity that does not comply with the bill’s collection requirements. It was pulled from consideration at the request of the author on June 3, 2021.

AB 892 – FAILED IN COMMITTEE: Solicitation of a Minor

AB 892 (Choi) would have required a person convicted of misdemeanor solicitation of a minor for prostitution to register as a sex offender – including with a campus chief of police if the person was residing on the campus. The bill did not pass a vote of the Assembly Public Safety committee on April 13, 2021.

AB 1456 – VETOED BY GOVERNOR: Cal Grant Reform

AB 1456 would have made a number of significant reforms to the Cal Grant program. Specifically related to sexual assault, it would require any sexual assault report received by a campus security authority receiving Cal Grant funds to be immediately disclosed to local law enforcement – without identifying the victim (unless they consent to being identified). Further, the bill requires that if the victim does not consent to being identified, the alleged assailant will also not be identified, unless (1) they represent an ongoing safety threat AND (2) the immediate assistance of law enforcement is required to contact or detain the assailant. It was vetoed by the Governor on October 8, 2021 due to budget reasons and may be considered during 2022 budget negotiations.

AB 1461 – VETOED BY GOVERNOR: Noncitizen Victims

AB 1461 (Reyes) would have provided that applicants who have completed their formal application with the appropriate federal agency for status or relief under the federal Violence Against Women Act (VAWA), special immigrant juvenile status (SIJS), or asylum status are eligible for certain public social services and health care services that are authorized in current law to certain noncitizen survivors of trafficking and serious crimes. Additionally, the bill included noncitizen children who have been abused, neglected, or abandoned within the meaning of noncitizen survivors of serious crimes. It was vetoed by the Governor on October 5, 2021 for budget reasons, and may be considered during the next budget negotiations in 2022.



AB 1467 – STALLED IN COMMITTEE: Title IX Protocols in Universities

AB 1467 (Cervantes) would have required that sexual assault counselors at public colleges and universities be independent from the campus Title IX office, and be appointed based on “experience and a demonstrated ability to effectively provide sexual violence victim services and response”. The bill would also have prohibited sexual assault counselors from notifying the university “or any other authority” of the victim’s identity unless otherwise required, and would have required the CSU chancellor to submit executive orders related to discrimination, harassment and retaliation in an annual report to the California State Legislature. It was not released from the Appropriations Committee’s suspense file, and its hearing has been postponed indefinitely as of May 20, 2021.

SB 299 – PASSED FIRST HOUSE; PULLED: Victim Compensation, Law Enforcement Use of Force

SB 299 (Leyva) allows eligibility for compensation under the California Victim Compensation Program (CalVCP) for serious bodily injury or death caused by a law enforcement officers’ use of force – including by campus police – regardless of whether the officer is arrested for, charged with, or convicted of committing a crime as a result of the incident. The bill passed the Senate on June 2, 2021 but was pulled from consideration by the Assembly on September 10, 2021.

SB 615 – PULLED BY AUTHOR: Unlawful Sex with a Minor

SB 615 (Melendez) would have repealed last year’s SB 145 – which exempted people convicted of certain sex offenses involving minors if the person was not more than 10 years older than the minor from mandatory sex offender registration. The bill would have changed the exemption to 3 years, but was pulled from consideration at the request of the author on April 19, 2021.

SB 699 – PASSED FIRST HOUSE; PULLED BY AUTHOR: School Climate Survey

SB 699 (Eggman) would have required the State Board of Education to adopt a statewide school climate indicator consisting of a subset of data from the California Healthy Kids Survey (CHKS), adopt standards for school district and individual school site performance and expectations for improvement on that indicator, and to publicly report performance data. The bill also would have required local educational agencies to annually administer the CHKS or an alternative school climate survey. It passed the Senate on June 1, 2021 and was ordered to the Assembly, where it underwent several amendments in the Education committee. Its first hearing was canceled at the request of the author on July 7, 2021.