2021-22 SESSION

SENATE
THIRD READING PACKET

MONDAY, APRIL 04, 2022

JONAS AUSTIN
Director

OFFICE OF SENATE FLOOR ANALYSES
651-1520

SENATE THIRD READING PACKET

Attached are analyses of bills on the Daily File for Monday, April 04, 2022.

Note	Measure	Author	Location
	SB 349	Umberg	Unfinished Business
+	SB 836	Wiener	Senate Bills - Third Reading File
	SB 918	Portantino	Senate Bills - Third Reading File
+	SB 928	Wieckowski	Senate Bills - Third Reading File
+	SB 935	Min	Consent Calendar First Legislative Day
+	SB 937	Ochoa Bogh	Consent Calendar First Legislative Day
	SB 939	Pan	Senate Bills - Third Reading File
+	SB 940	Laird	Senate Bills - Third Reading File
+	SB 956	Wieckowski	Consent Calendar First Legislative Day
+	SB 1005	Wieckowski	Consent Calendar First Legislative Day
	SB 1038	Bradford	Senate Bills - Third Reading File
	SB 1046	Eggman	Senate Bills - Third Reading File
	SB 1106	Wiener	Senate Bills - Third Reading File
	SB 1192	Ochoa Bogh	Consent Calendar Second Legislative Day
+	SB 1394	Eggman	Senate Bills - Third Reading File
	SCR 64	Rubio	Senate Bills - Third Reading File
	SCR 69	Grove	Senate Bills - Third Reading File
	SCR 77	Umberg	Senate Bills - Third Reading File
	SCR 84	Umberg	Senate Bills - Third Reading File
	SCR 85	Umberg	Senate Bills - Third Reading File
	SCR 87	Nielsen	Senate Bills - Third Reading File
	SCR 88	Dodd	Senate Bills - Third Reading File
	SCR 89	Newman	Senate Bills - Third Reading File
	SJR 11	Skinner	Senate Bills - Third Reading File
	SJR 12	Skinner	Senate Bills - Third Reading File
	SR 45	Min	Senate Bills - Third Reading File
	SR 67	Archuleta	Senate Bills - Third Reading File
	SR 77	Cortese	Senate Bills - Third Reading File
	SR 78	Gonzalez	Senate Bills - Third Reading File
	ACR 119	Boerner Horvath	Assembly Bills - Third Reading File
	ACR 149	Rodriguez	Assembly Bills - Third Reading File
	ACR 150	Nazarian	Assembly Bills - Third Reading File
	ACR 155	Aguiar-Curry	Assembly Bills - Third Reading File
	ACR 156	Mullin	Assembly Bills - Third Reading File
	ACR 160	Mathis	Assembly Bills - Third Reading File
	AJR 22	Gabriel	Assembly Bills - Third Reading File

+ ADDS
RA Revised Analysis
* Analysis pending

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UNFINISHED BUSINESS

Bill No: SB 349
Author: Umberg (D)
Amended: 2/22/22
Vote: 21

SENATE HEALTH COMMITTEE: 10-0, 3/17/21
AYES: Pan, Eggman, Gonzalez, Grove, Hurtado, Leyva, Limón, Roth, Rubio, Wiener
NO VOTE RECORDED: Melendez

SENATE JUDICIARY COMMITTEE: 11-0, 4/6/21
AYES: Umberg, Borgeas, Caballero, Durazo, Gonzalez, Hertzberg, Jones, Laird, Stern, Wieckowski, Wiener

SENATE APPROPRIATIONS COMMITTEE: 7-0, 5/20/21
AYES: Portantino, Bates, Bradford, Jones, Kamlager, Laird, Wieckowski

SENATE FLOOR: 38-0, 5/28/21
AYES: Allen, Archuleta, Bates, Becker, Borgeas, Bradford, Caballero, Cortese, Dahle, Dodd, Durazo, Eggman, Glazer, Gonzalez, Grove, Hertzberg, Hueso, Hurtado, Jones, Kamlager, Laird, Leyva, McGuire, Melendez, Min, Newman, Nielsen, Ochoa Bogh, Pan, Portantino, Roth, Rubio, Skinner, Stern, Umberg, Wieckowski, Wiener, Wilk
NO VOTE RECORDED: Atkins, Limón

ASSEMBLY FLOOR: 65-0, 3/28/22 - See last page for vote

SUBJECT: California Ethical Treatment for Persons with Substance Use Disorder Act

SOURCE: Author

DIGEST: This bill requires every treatment provider operating in the state, as defined, to adopt and make available a client bill of rights that ensures those

seeking substance use disorder (SUD) treatment have the right to safe and ethical treatment. This bill prohibits treatment providers from making false or misleading statements in marketing or advertising, as specified.

Assembly Amendments make technical amendments to the provisions allowing specified entities to bring an action in any court against a treatment provider that violates any provision in this bill.

ANALYSIS:

Existing law:

1) Requires the Department of Health Care Services (DHCS) to license alcoholism or drug abuse recovery or treatment facilities (RTFs) that provide residential non-medical services to adults who are recovering from problems related to alcohol, drug, or alcohol and drug misuse or abuse, and who need alcohol, drug, or alcohol and drug recovery, treatment, or detoxification services. [HSC §11834.01, et seq.]

2) Grants DHCS the authority to implement a program certification procedure for alcohol and other drug treatment recovery services and to develop standards and regulations for the alcohol and other drug treatment recovery services describing the minimal level of service quality required of the service providers to qualify for and obtain state certification. [HSC §11830.1]

3) Prohibits a DHCS licensed RTF or certified program, and specified individuals associated with or employed by those facilities and programs, from giving or receiving remuneration or anything of value for the referral of a person who is seeking alcoholism or drug abuse recovery and treatment services, as specified. Permits DHCS to investigate allegations of violations and take action, such as revocation of licensure or certification, or assessment of penalties. [HSC §11831.6 and 11831.7]

4) Requires a DHCS licensed RTF or certified program to disclose to DHCS ownership or control of, or financial interest in, a recovery residence, or any contractual relationship with an entity that regularly provides professional services or SUD treatment or recovery services to clients of licensed RTFs or certified programs, if the entity is not part of the certified program or licensed RTF. [HSC §11833.05]

5) Defines a "recovery residence" as a residential dwelling that provides primary housing for individuals who seek a cooperative living arrangement that supports personal recovery from an SUD and that does not require licensure by

DHCS or does not provide licensable services, as specified, including residential dwellings commonly referred to as "sober living homes," "sober living environments," or "unlicensed alcohol and drug free residences." [HSC §11833.05]

This bill:

1) Establishes the California Ethical Treatment for Persons with Substance Use Disorder Act and requires every treatment provider operating in the state, as defined, to adopt and make available to clients a client bill of rights that ensures those receiving SUD treatment have the right to all of the following:

    a) To be treated for addiction with honesty, respect, and dignity, including privacy in treatment and in care of personal needs;
    b) To be informed by the treatment provider of all the aspects of treatment recommended to the client, including the option of no treatment, risks of treatment, and expected result or results;
    c) To be treated by licensed and certified treatment providers with qualified staff;
    d) To receive evidence-based treatment;
    e) To be treated simultaneously for co-occurring behavioral health conditions, as specified;
    f) To receive an individualized, outcome-driven treatment plan;
    g) To remain in treatment for as long as the treatment provider is authorized to treat the client;
    h) To receive support, education, and treatment for their families and loved ones, as specified;
    i) To receive care in a treatment setting that is safe and ethical;
    j) To receive ethical care that covers and ensures full compliance with licensure requirements;
    k) To be free from mental and physical abuse, exploitation, coercion, and physical restraint.
    l) To be informed of these rights once enrolled to receive treatment, as evidenced by written acknowledgment or by documentation by staff in the clinical record that a written copy of these rights were given; and,
    m) To be informed by the treatment provider of the law regarding complaints, including, but not limited to, to be informed of the address and telephone number of the department.

2) Requires any marketing or advertising materials published or disseminated by a treatment provider to provide accurate and complete information in plain

language that is easy to understand. Requires the materials to include information about the types and methods of service provided or used and where they are provided, as specified, and the treatment provider's name and brand.

3) Requires a certified outpatient program that has a relationship with an entity with a housing component to adhere to disclosure requirements in existing law and to clearly provide that information to prospective clients, as specified.

4) Deems it unlawful for a treatment provider to knowingly and willfully make false or misleading statements, as specified, in advertising materials, on a call line, on a website, or in any other marketing materials; or to make a false or misleading statement about being an in-network or out-of-network provider; or direct others to provide false or misleading information or direct a person to another website; or to suggest or imply that a relationship exists with a treatment provider; or to make false or misleading statements about SUD treatment services. Deems that a person or entity that knowingly violates these provisions is subject to a civil fine not to exceed $20,000.

5) Requires every treatment provider to maintain records of referrals made to or from recovery residences, as specified.

6) Prohibits a treatment provider from requesting, receiving, or retaining payment for SUD treatment services provided to a client as a result of conduct declared unlawful under the provisions of this bill.

7) Permits a person or entity who suffers loss, as specified, as a result of any practice declared unlawful under the provisions of this bill to bring an action in any court, as specified. Permits the Attorney General, a district attorney, any other government entity or agency, or any other person, as specified, to bring an action against the violation of the provisions in this bill, as specified.

8) Permits DHCS to investigate an allegation of a violation of the provisions in this bill and to take necessary action, including assessing penalties, suspending or revoking licensure or certification, and recommending disciplinary action, as specified.

9) Permits DHCS, for the first violation by a treatment provider, to issue a notice of violation and a corrective action plan with a time certain date for compliance and to take further action, as specified.

10) Makes any person or entity that violates any provision in this bill subject to a civil penalty of not more than $20,000.

11) Requires DHCS to promulgate regulations to ensure compliance with the provisions in this bill by treatment providers.

12) Defines "treatment provider" as a DHCS-licensed RTF or certified program.

Background

Over the years, the media has reported on troubles within the general addiction treatment industry, both in California and in the nation. Some highly publicized news articles ("How Some Southern California drug rehab centers exploit addiction," *Orange County Register*, May 21, 2017; "A Choice for Recovering Addicts: Relapse or Homelessness, *New York Times*, May 30, 2015; "California's Rehab System is in Crisis … " *CityWatch Los Angeles*, June 23, 2016; and "Special Report: Two states with an ocean view, and an ethical cloud," *Addiction Professional*, March 18, 2013) highlighted the issue of "patient brokering," whereby unscrupulous individuals (sometimes called "interventionists" or "body brokers") lure clients seeking SUD treatment services, buy insurance policies for the clients or offer to pay their deductibles, and "sell" them to facility operators that do not provide any type of treatment services or regular, all the while billing insurance plans. Some of the individuals involved in this practice have been quoted in news articles as acknowledging that the practice may be wrong; however, they also claim that the practice is so ubiquitous in California and the nation that they would have no clients at all if they did not engage. As a result, some facility operators keep interventionists on retainer, often for $5,000 to $10,000 a month, regardless of how many clients an interventionist refers to them in order to remain in business. After clients' insurance coverage is exhausted, unscrupulous facility operators have been allegedly dumping those clients in the streets where they continue their addictions. In many news articles, the issue is mostly attributed to facilities that do not require state licensure or oversight, known as sober living homes or recovery residences.

Cracking down on unscrupulous activities in California. In November 2016, the California Department of Insurance (CDI) issued a press release about an investigation that resulted in the arrest of the operators of some Southern California sober living homes), operated as Community Recovery of Los Angeles (CRLA). The operators were arrested on several felony counts of grand theft and identity theft for allegedly conspiring to defraud clients and insurers out of more

than $176 million. Affected insurers paid nearly $44 million before discovering the suspected fraud and stopping payments to CRLA, which was accused of luring people with treatment marketing schemes and stealing patient identities to buy health insurance policies for people without their knowledge, as well as committing such acts as submitting claims for services not provided, falsely representing CRLA as a licensed RTF while not being licensed as such, and filing fraudulent health insurance policy applications. A document posted on DHCS's website indicated at the time that CRLA operated both recovery residences, which were claiming to be licensed, and DHCS-certified outpatient programs. In March 2018, the *Orange County Register* subsequently reported that one of the operators of CRLA plead guilty to 46 felony counts involving the insurance billing scheme and received 11 years in state prison following a plea to 28 counts of money laundering, seven counts of grand theft, six counts of identity theft, and five counts of insurance fraud.

In January 2020, CDI, through a joint effort with the Orange County District Attorney's Office, shut down an alleged $3.2 million health care fraud ring which preyed on those with SUDs in order to bilk insurance companies out of millions. Several individuals were charged with multiple felony counts including insurance fraud and money laundering in connection with the scheme. Insurance Commissioner Ricardo Lara stated that the suspects are accused of finding patients across the country who were seeking help for their SUDs, and flying them to California to enter treatment at Casa Bella International Inc., which was owned and operated by one of the suspects. In order to obtain payment from the insurance company for these clients, the suspects are accused of directing employees to fill out policies for the patients using false information. The suspect who owned the facility is alleged to have paid the other co-conspirators upwards of $10,000 per patient who stayed enrolled in treatment for more than 30 days.

Most recently, in June 2020, CDI issued another press release announcing the arrests of five more suspects who are alleged to have been conspiring with the suspects arrested earlier in the year. The new defendants face up to 21 years in prison for their alleged involvement in a scheme that resulted in $60 million in fraudulent billing and $11.7 million in insurance losses. Authorities allege that all the defendants used mass media marketing campaigns to identify addicted clients from across the country who were seeking treatment. According to CDI, the conspirators and their employees then falsified clients' health care insurance applications to circumvent California residency requirements and closed enrollment periods; employed a money-laundering scheme they devised to conceal their involvement in paying clients' insurance premiums; and trafficked their clients into Southern California treatment facilities.

Comments

Author's statement. According to the author, the United States is in the grip of an epidemic of SUDs, with an average of 185 Americans dying of overdose and addiction-related complications every day. While California has many excellent treatment programs, the unsafe and unethical practices of other system actors are steering these vulnerable people away from the care these programs provide and the treatment they desperately need. Abuses within the treatment industry have become so prevalent and common that they have been given a name: The Florida Shuffle, a cycle in which clients are wooed aggressively by rehabs and freelance "patient brokers" in an effort to fill beds and collect insurance money. Southern California's "Rehab Riviera" is well known as an area in which a network of rehab facilities exist in a quasi-medical realm where evidence-based care is rare, licensed medical staffers are optional, conflicts of interest are rampant, and regulation is stunningly lax. The result is preventable harm to some of California's most vulnerable residents and unnecessary pain for their loved ones. This bill seeks to end these predatory behaviors by establishing uniform ethical standards for treatment programs and mechanisms for enforcing those standards.

FISCAL EFFECT: Appropriation: No Fiscal Com.: Yes Local: No

According to the Assembly Appropriations Committee, DHCS requires seven new staff positions for substantial research and analysis and to develop regulations and guidelines, as well as oversee compliance. DHCS projects costs of $1,069,000 for fiscal year (FY) 2022-23 and $1,006,000 for FY 2023-24 and ongoing (General Fund (GF)).

In addition, costs to the Department of Justice are unknown, but potentially significant for increased workload to monitor compliance and then bring investigations or enforcement actions when there is a violation. This would require a significant increase in attorney hours requiring an unknown number of additional deputy attorneys general. Costs could exceed hundreds of thousands of dollars (GF).

SUPPORT: (Verified 3/30/22)

A New Path
Advocates for Responsible Treatment
Alcohol Justice
California Consortium of Addiction Programs and Professionals
California Council of Community Behavioral Health Agencies
Casa Palmera
Central Valley Recovery Services, Inc.

County Behavioral Health Directors Association of California
Humboldt Recovery Center
National Alliance for Model State Drug Laws
Opus Health, LLC
San Jose City College Alcohol and Drug Studies Program
Stepping Stone of San Diego
The Purpose of Recovery

OPPOSITION: (Verified 3/30/22)

California Association of Alcohol and Drug Program Executives

ARGUMENTS IN SUPPORT: The California Consortium of Addiction Programs and Professionals (CCAPP) states that this bill continues the effort of previously enacted legislation to end the abhorrent practice of selling vulnerable patients seeking addiction treatment services to the highest bidder. CCAPP further argues that the practice of ensnaring vulnerable people seeking help for loved ones is rampant in California and although the state cannot stop this practice nationwide, it must do all that it can to ensure that California treatment programs cannot continue to support these practices with their patronage. This bill provides important enforcement provisions that allow multiple agencies, as well private individuals, to seek judgements against unscrupulous online registries that prey upon Californians seeking assistance with addiction treatment.

The County Behavioral Health Directors Association of California states that, according to research conducted by the Centers for Disease Control and Prevention, 67,367 drug overdose deaths occurred in the United States in 2018, and this bill seeks to prevent these deaths by hindering the development of inadequate facilities and ensuring that patients receive higher quality care than is currently being provided.

ARGUMENTS IN OPPOSITION: The California Association of Alcohol and Drug Program Executives (CAADPE) is opposed to this bill, unless it is amended to exclude programs that are licensed and/or certified by DHCS, because it argues that the provisions in this bill are duplicative of current DHCS functions. CAADPE is also opposed to the large fine in this bill unless it is amended to define the violations that would trigger the large penalty.

ASSEMBLY FLOOR: 65-0, 3/28/22
AYES: Aguiar-Curry, Arambula, Bauer-Kahan, Bennett, Berman, Bigelow, Bloom, Mia Bonta, Bryan, Calderon, Carrillo, Cervantes, Chen, Choi, Cooley,

Cooper, Cunningham, Megan Dahle, Daly, Davies, Flora, Mike Fong, Fong, Friedman, Gabriel, Cristina Garcia, Eduardo Garcia, Gipson, Gray, Grayson, Holden, Kalra, Kiley, Lackey, Lee, Levine, Low, Maienschein, Mathis, Mayes, McCarty, Mullin, Muratsuchi, Nazarian, Nguyen, O'Donnell, Petrie-Norris, Quirk, Quirk-Silva, Ramos, Reyes, Luz Rivas, Blanca Rubio, Salas, Santiago, Seyarto, Smith, Stone, Ting, Villapudua, Waldron, Ward, Wicks, Wood, Rendon

NO VOTE RECORDED: Boerner Horvath, Gallagher, Irwin, Jones-Sawyer, Medina, Patterson, Robert Rivas, Rodriguez, Valladares, Voepel, Akilah Weber

Prepared by: Reyes Diaz / HEALTH / (916) 651-4111
3/30/22 16:22:08

****** END *****

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THIRD READING

Bill No: SB 836
Author: Wiener (D)
Amended: 2/18/22
Vote: 27 - Urgency

SENATE PUBLIC SAFETY COMMITTEE: 4-0, 3/8/22
AYES: Bradford, Kamlager, Skinner, Wiener
NO VOTE RECORDED: Ochoa Bogh

SENATE JUDICIARY COMMITTEE: 9-0, 3/29/22
AYES: Umberg, Durazo, Gonzalez, Hertzberg, Laird, McGuire, Stern, Wieckowski, Wiener
NO VOTE RECORDED: Borgeas, Jones

SUBJECT: Evidence: immigration status

SOURCE: California Employment Lawyers Association
Coalition for Humane Immigrant Rights
Legal Aid at Work
Los Angeles County District Attorney's Office
San Francisco District Attorney's Office

DIGEST: This bill reenacts provisions of law that prohibited the disclosure of a person's immigration status in open court unless the judge determines in an in camera hearing that the evidence is admissible.

ANALYSIS:

Existing law:

1) States that only relevant evidence is admissible, and except as otherwise provided by statute, all relevant evidence is admissible. (Evid. Code, §§ 350, 351.)

2) Provides that relevant evidence shall not be excluded in any criminal proceeding, including pretrial and post-conviction motions and hearings, or in any trial or hearing of a juvenile for a criminal offense, whether heard in juvenile or adult court, subject to the existing statutory role of evidence relating to privilege or hearsay, or inadmissibility. (Cal. Const., art. I, § 28, as adopted June 8, 1982.)

3) Defines "relevant evidence" means evidence, including evidence relevant to the credibility of a witness or hearsay declarant, having any tendency in reason to prove or disprove any disputed fact that is of consequence to the determination of the action. (Evid. Code, § 210.)

4) Authorizes a court in its discretion to exclude evidence if its probative value is substantially outweighed by the probability that its admission will (a) necessitate undue consumption of time or (b) create substantial danger of undue prejudice, of confusing the issues, or of misleading the jury. (Evid. Code, § 352.)

5) Allows the credibility of a witness to be attacked or supported by any party including the party calling him. (Evid. Code, § 785.)

6) Provides for the following procedure if evidence of sexual conduct of the complaining witness is offered to attack the credibility of the complaining witness in specified sex offense cases:

   a) A written motion shall be made by the defendant to the court and prosecutor stating that the defense has an offer of proof of the relevancy of evidence of the sexual conduct of the complaining witness proposed to be presented and its relevancy in attacking the credibility of the complaining witness.

   b) The written motion shall be accompanied by an affidavit in which the offer of proof shall be stated. The affidavit shall be filed under seal and only unsealed by the court to determine if the offer of proof is sufficient to order a hearing as provided below. After that determination, the affidavit shall be resealed by the court.

   c) If the court finds that the offer of proof is sufficient, the court shall order a hearing out of the presence of the jury, if any, and at the hearing allow the questioning of the complaining witness regarding the offer of proof made by the defendant.

d) At the conclusion of the hearing, if the court finds that evidence proposed to be offered by the defendant regarding the sexual conduct of the complaining witness is relevant, and is not inadmissible, the court may make an order stating what evidence may be introduced by the defendant, and the nature of the questions to be permitted. The defendant may then offer evidence pursuant to the court order.

e) An affidavit resealed by the court shall remain sealed, unless the defendant raises an issue on appeal or collateral review relating to the offer of proof in the sealed document, as provided. (Evid. Code, § 782, subd. (a).)

7) Provides that in a civil action for personal injury or wrongful death, evidence of a person's immigration status shall not be admitted into evidence, nor shall discovery into a person's immigration status be permitted. (Evid. Code, § 351.2.)

8) Provided that, until January 1, 2022, in a civil action not governed by Evidence Code Section 351.2, evidence of a person's immigration status shall not be disclosed in open court by a party or his or her attorney unless the judge presiding over the matter first determines that the evidence is admissible in an in camera hearing requested by the party seeking disclosure of the person's immigration status. (Evid. Code, §351.3, subd. (a), repealed Jan. 1, 2022.)

9) Specified that, until January 1, 2022, the prohibition against disclosing a person's immigration status in civil actions does not:

a) Apply to cases in which a person's immigration status is necessary to prove an element of a claim or an affirmative defense;

b) Impact otherwise applicable laws governing the relevance of immigration status to liability or the standards applicable to inquiries regarding immigration status in discovery or proceedings in a civil action, as provided; or,

c) Prohibit a person or his or her attorney from voluntarily revealing his or her immigration status to the court. (Evid. Code, §351.3, subd. (b), repealed Jan. 1, 2022.)

10) Provided that, until January 1, 2022, on a criminal action, evidence of a person's immigration status shall not be disclosed in open court by a party or his or her attorney unless the judge presiding over the matter first determines

that the evidence is admissible in an in camera hearing requested by the party seeking disclosure of the person's immigration status. (Evid. Code, § 351.4, subd. (a), repealed Jan. 1, 2022.)

11) Specified that, until January 1, 2022, the prohibition against disclosing a person's immigration status in criminal actions does not:

    a) Apply to cases in which a person's immigration status is necessary to prove an element of an offense or an affirmative defense;

    b) Limit discovery in a criminal action; or,

    c) Prohibit a person or his or her attorney from voluntarily revealing his or her immigration status to the court. (Evid. Code, § 351.4, subd. (b).)

This bill:

1) Reenacts prior law that provided that in a civil action not governed by Evidence Code Section 351.2, evidence of a person's immigration status shall not be disclosed in open court by a party or his or her attorney unless the judge presiding over the matter first determines that the evidence is admissible in an in camera hearing requested by the party seeking disclosure of the person's immigration status.

2) Reenacts prior law that provided that on a criminal action, evidence of a person's immigration status shall not be disclosed in open court by a party or his or her attorney unless the judge presiding over the matter first determines that the evidence is admissible in an in camera hearing requested by the party seeking disclosure of the person's immigration status.

3) Includes the same intent language contained in prior law regarding not altering a prosecutor's existing obligation to disclose exculpatory evidence.

4) Contains an urgency clause.

Comments

According to the author of this bill:

> Senate Bill 836 removes the sunset date on Senate Bill 785, which protected a person's immigration status in a public court record, unless the presiding judge determined that immigration status was

relevant information. Senate Bill 785 (Wiener, Chapter 12, Statutes of 2018) was enacted to keep immigration status private in public court records, but it expired on January 1, 2022. SB 836 ensures that public courts continue to protect a person's immigration status.

SB 785 prohibited the inclusion of evidence of a person's immigration status in a public court record -- unless the party seeking its inclusion obtained a ruling by the presiding judge at an in-camera hearing that the evidence was relevant -- until January 1, 2022. SB 785 guaranteed a procedural requirement that protected a person's immigration status from being exposed in open court prior to review by the presiding judge. Immigration status was only considered admissible evidence when a judge ruled it to be so at an in camera hearing. Only then could it be part of public court records. SB 785 did not prohibit an individual from voluntarily revealing their own immigration status in court. The protections established by SB 785 also applied to both civil and criminal cases.

In March 2017, California Chief Supreme Court Justice Tani Cantil-Sakauye sent a letter to U.S. Former Attorney General Jeff Sessions and Former Homeland Security Secretary John Kelly expressing concern over reports of immigration agents stalking undocumented immigrants in California courthouses. Chief Justice Cantil-Sakauye said, "Our courthouses serve as a vital forum for ensuring access to justice and protecting public safety. Courthouses should not be used as bait in the necessary enforcement of our country's immigration laws."

Prior to SB 785 becoming law, there were numerous documented examples of defense attorneys exposing the immigration status of witnesses and victims of crimes in California courthouses. In addition, there were reports of immigration agents throughout the country monitoring and detaining individuals at courthouses.

The protections guaranteed by SB 785 ended on January 1, 2022. Many immigrants continue to feel apprehension in court settings for fear of being targeted and arrested by Immigration and Customs Enforcement (ICE) agents. Every day that passes without these protections puts immigrants at risk.

FISCAL EFFECT: Appropriation: No Fiscal Com.: No Local: No

SUPPORT: (Verified 3/30/22)

California Employment Lawyers Association (co-source)
Coalition for Humane Immigrant Rights (co-source)
Legal Aid at Work (co-source)
Los Angeles County District Attorney's Office (co-source)
San Francisco District Attorney's Office (co-source)
Asian Americans Advancing Justice – California
California for Safety and Justice
California Partnership to End Domestic Violence
California Rural Legal Assistance Foundation, Inc.
Center for Workers' Rights
Centro Legal De LA Raza
Disability Rights California
Ella Baker Center for Human Rights
Equal Rights Advocates
Friends Committee on Legislation of California
LA Raza Centro Legal
Oakland Privacy
PICO California
Prosecutors Alliance of California
San Diego County District Attorney's Office
UC Hastings Community Justice Clinics
Warehouse Worker Resource Center

OPPOSITION: (Verified 3/30/22)

None received

Prepared by: Stella Choe / PUB. S. /
3/31/22 15:10:46

****** END ******

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THIRD READING

Bill No: SB 918
Author: Portantino (D)
Introduced: 2/3/22
Vote: 21

SENATE PUBLIC SAFETY COMMITTEE: 4-1, 3/22/22
AYES: Bradford, Kamlager, Skinner, Wiener
NOES: Ochoa Bogh

SUBJECT: Firearms

SOURCE: Department of Justice

DIGEST: This bill corrects cross-references in the statutes establishing the basic ammunition eligibility check fee and the precursor part eligibility check fee.

ANALYSIS:

Existing law:

1) Authorizes the Department of Justice (DOJ) to require firearms dealers to charge each firearm purchaser a fee not to exceed $1, except that the fee may be increased at a rate not to exceed any increase in the California Consumer Price Index. (Pen. Code §28225(a).)

2) Provides that the fee in Penal Code §28225(a) shall be no more than is necessary to fund specified governmental notification and reporting functions. (Pen. Code §28225(b).)

3) Authorizes the DOJ to charge a fee sufficient to reimburse it for specified administrative costs, but not to exceed $14, except that the fee may be increase at a rate not to exceed any increase in the California Consumer Price Index. (Pen. Code §28230.)

4) Authorizes the DOJ to require a firearms dealer to charge each firearm purchaser a fee in the amount of thirty-one dollars and nineteen cents ($31.19),

which may be increased at a rate no more than any increase in the California Consumer Price Index. (Pen. Code §28233(a), (c).)

5) Requires that fees collected pursuant to Pen. Code §28233(a) be deposited in the Dealer's Record of Sale (DROS) Supplemental Subaccount within the DROS Special Account of the General Fund, and authorizes the expenditure of those funds by the DOJ to offset the reasonable costs of specified firearms-related regulatory and enforcement activities. (Pen. Code §28233(b).)

6) Requires all purchaser information to be transmitted to the DOJ solely via electronic transfer. (Pen. Code §28205.)

7) Provides that, commencing July 1, 2019, the DOJ shall electronically approve the purchase or transfer of ammunition through a vendor, and establishes related guidelines and eligibility criteria. (Pen. Code §30370(a), (b).)

8) Requires the DOJ to develop a procedure by which a person who is not prohibited from purchasing or possessing ammunition may be approved for a single ammunition transaction or purchase. (Pen. Code §30370(c).)

9) Provides that, commencing July 1, 2022, the DOJ shall electronically approve the purchase or transfer of firearm precursor parts through a vendor, and establishes related guidelines and eligibility criteria. (Pen. Code §30470(a), (b).)

10) Requires the DOJ to develop a procedure by which a person who is not prohibited from purchasing or possessing a firearm precursor part may be approved for a single ammunition transaction or purchase. (Pen. Code §30470(c).)

11) Requires the DOJ to recover its costs under Penal Code §30370 by charging the ammunition transaction or purchase applicant a fee not to exceed the fee charged for its DROS process, as described in Penal Code §28225, and not to exceed the DOJ's reasonable costs. (Pen. Code §30470(c).)

12) Provides that, commencing July 1, 2022, licensed firearms dealers and licensed ammunition vendors shall automatically be deemed firearm precursor part vendors, provided they comply with specified requirements. (Pen. Code §30485(d).)

This bill:

1) Requires the DOJ to recover its costs under Penal Code §30370 by charging a fee not to exceed the fee charged for the DROS process described in Penal Code §28225, as it read on December 31, 2019.

2) Requires the DOJ to recover its costs under Penal Code §30470 by charging a fee not to exceed the fee charged for the DROS process described in Penal Code §28225, as it read on December 31, 2019.

3) Updates a cross-reference in Penal Code §30485 to refer to the correct set of dealer requirements.

Comments

The DROS fee was first established in 1982 in order to cover DOJ's cost of performing a background check on firearms purchasers. Although the initial DROS fee was only intended to cover the cost of background checks, subsequent legislation contemplated that DROS funds be used for other purposes, such as enforcement of the Armed Prohibited Persons System. Prior to 2020, the DROS fee was implemented in two separate statutes, one that allowed DOJ to charge the fee to the dealer for each firearms purchased and another that effectively allowed the firearms dealer to pass that cost along to the purchaser. AB 1669 (Bonta, Chapter 736, Statutes of 2019) increased the DROS fee to $31.19 and restructured it within the Penal Code.

According to the DOJ, the new DROS fee under AB 1669 was calculated to create sufficient revenues to avert the need for additional General Fund or significant programmatic service reductions. Additionally, AB 1669 authorized the DOJ to adjust the DROS fee in order to fund any firearms activity that is required of DOJ for which there is no sustainable source of funding.

The amounts of the cost recovery fees authorized by prior legislation related to ammunition and precursor part purchases are tied directly to the amount of the DROS fee. However, when the DROS fee was adjusted and codified in a new section of the Penal Code, the code sections establishing those cost recovery fees were not updated with the correct cross-reference. Although the DOJ's fee authority and assessments have not changed, and there was never an intent to lower the fees, that erroneous omission remains in existing law. This bill amends the cost recovery fee provisions related to ammunition and precursor part purchases to refer to the DROS fee as it was codified prior to the effective date of AB 1669. In doing

so, this bill clarifies that these cost recovery fees remain unchanged since the effective date of AB 1669.

FISCAL EFFECT: Appropriation: No Fiscal Com.: No Local: No

SUPPORT: (Verified 3/22/22)

Department of Justice (source)

OPPOSITION: (Verified 3/22/22)

Gun Owners of California, Inc.
National Rifle Association, Institute for Legislative Action

Prepared by: Alex Barnett / PUB. S. /
3/25/22 9:21:41

****** END ******

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THIRD READING

Bill No: SB 928
Author: Wieckowski (D)
Introduced: 2/7/22
Vote: 21

SENATE JUDICIARY COMMITTEE: 11-0, 3/29/22
AYES: Umberg, Borgeas, Durazo, Gonzalez, Hertzberg, Jones, Laird, McGuire, Stern, Wieckowski, Wiener

SUBJECT: Public administrators: compensation

SOURCE: California Association of Public Administrators, Public Guardians, and Public Conservators

DIGEST: This bill increases the minimum compensation payable to a public administrator from $1,000 to $3,000.

ANALYSIS:

Existing law:

1) Authorizes a public administrator to take charge of property of a decedent that is subject to loss, injury, waste, or misappropriation, to locate the next of kin of a decedent, and to petition the court to be appointed personal representative of the decedent's estate in order to effectuate a distribution of the estate and to control disposition of the decedent's remains. (Prob. C. §§ 7600-7666, Health & Saf. C. § 7100.)

2) Provides that a public administrator is entitled to compensation for administering an estate in the same manner as a personal representative is under the Probate Code; which is based upon a percentage of the value of the estate. (Prob. C. § 7666(a) & 10800.)

3) Provides that the public administrator is entitled to a minimum compensation of $1,000. (Prob. C. §§ 7666.)

This bill increases the minimum compensation of the public administrator to $3,000.

Comments

Public administrators are officers of a county authorized under the Probate Code to take possession or control of property of a decedent that is subject to loss, injury, waste, or misappropriation. They are required to attempt to locate the will and next of kin of a decedent and instructions for disposition of the decedent's remains. If no other appropriate person exists or is willing or able to administer the decedent's estate, the public administrator is required to petition the court to be appointed personal representative of the decedent's estate in order to effectuate a distribution of the estate and to control disposition of the decedent's remains.

Compensation cannot be collected until after all debts, taxes, and obligations are paid. Though the public administrator is entitled to a percentage of the estate as compensation in the same manner as a personal representative, in many cases the value of the estates being administered by the public administrator, after debts, taxes, and obligations are paid, are insufficient to cover the costs of administering the estate. According to the California Association of Public Administrators, Public Guardians, and Public Conservators, the sponsor of this bill, an informal survey of five counties of various size and location throughout California found that in 2018 public administrators collected approximately 12 percent of their costs from the estates they administered. This means that 88 percent of the costs associated with administering estates by public administrators in those counties that responded were paid for through the county general fund. Increasing the minimum compensation public administrators are entitled to could help defray some of the cost burden on counties.

FISCAL EFFECT: Appropriation: No Fiscal Com.: No Local: No

SUPPORT: (Verified 3/30/22)

California Association of Public Administrators, Public Guardians, and Public Conservators (source)
California State Association of Counties
Professional Fiduciary Association of California
Santa Barbara County Board of Supervisors

OPPOSITION: (Verified 3/30/22)

None received

ARGUMENTS IN SUPPORT: According to the author:

> Public administrators are county employees that manage the estates and make final arrangements for county residents who die without a will or any known relatives willing to act on their behalf. To do so, public administrators collect a minimum fee from the estate to help offset the costs of the service to the county. SB 928 would increase the public administrator fee from $1,000 to $3,000. This increase is much needed, as the last fee increase was in 2004 and the previous increase before that was in 1998. The current fee of $1,000 is often insufficient to cover the full cost of these mandated services, and the remaining costs must be absorbed by county taxpayers through the county general fund. This bill would increase their fee so that less of the cost is absorbed by the county and taxpayers.

The California Association of Public Administrators, Public Guardians, and Public Conservators, the sponsor of this bill, writes:

> […] A Public Administrator manages estates and makes final arrangements for county residents who die without a will or any known relatives able or willing to act on the decedent's behalf to manage and resolve the estate. Working through appropriate methods of probate, the Public Administrator manages the estate until proper distribution is completed.
>
> Public administrators are employed by counties and the minimum fee collected from the estate represents a small percentage of the costs counties incur to operate these programs, which are mandated services.
>
> The estates managed by Public Administrators are rarely large enough, and debts small enough, to allow Public Administrators to collect fees sufficient to cover the full costs of their services. In fact, an informal survey of five counties of various size and location throughout California found that in 2018 Public Administrators collected approximately 12% of their costs from the estates they administrated. That means the county taxpayers – through the county general fund - paid for approximately 88% of the costs associated with administrating estates.
>
> The last increase to the minimum fee was in 2004 through AB 2687 (Canciamilla) and the previous increase before that was in 1998. These Public Administrator’s fees can only be collected after all debts, taxes, etc. are

dispensed with. In many cases, the estate is too small or other debts take precedent, leaving no money to pay the Public Administrator.[…]

Prepared by: Amanda Mattson / JUD. / (916) 651-4113
3/31/22 15:10:47

****** END ******

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CONSENT

Bill No: SB 935
Author: Min (D) and Rubio (D)
Introduced: 2/7/22
Vote: 21

SENATE JUDICIARY COMMITTEE: 11-0, 3/29/22
AYES: Umberg, Borgeas, Durazo, Gonzalez, Hertzberg, Jones, Laird, McGuire, Stern, Wieckowski, Wiener

SUBJECT: Domestic violence: protective orders

SOURCE: Author

DIGEST: This bill clarifies that certain protective orders issued under the Domestic Violence Protection Act (DVPA) may be renewed more than once.

ANALYSIS:

Existing law:

1) Establishes the DVPA (Fam. Code §§ 6200 et seq.), which sets forth procedural and substantive requirements for the issuance of a protective order to, among other things, enjoin specific acts of abuse or prohibit the abuser from coming within a specified distance of the abused person. (Fam. Code §§ 6218, 6300 et seq.)

2) Provides for the issuance of DVPA ex parte orders and orders issued after a noticed hearing at which the alleged abuser may appear. (Fam. Code §§ 6320-6327, 6340-6347.)

3) Grants the court the discretion to set the duration of a DVPA protective order issued after a noticed hearing, up to a maximum of five years. (Fam. Code § 6345(a).)

a) At any point during the duration of the order, it may be modified or terminated by the court upon a written stipulation filed with the court or by the motion of a party. (Fam. Code § 6345(a).)

4) Allows a court to renew a DVPA protective order issued after a noticed hearing, upon request of a party, for five years or permanently.

   a) The request for a renewed order may be made at any time within three months of the order's expiration date.

   b) The renewed order is subject to modification or termination on the same bases as the original order. (Fam. Code § 6345(a).)

This bill clarifies that DVPA protective orders that have already been renewed by the court for a five-year term may be subsequently renewed under the same statute and subject to the same procedures.

Comments

According to the author, some courts have expressed confusion as to whether a protective order issued pursuant to the DVPA may be renewed more than once (i.e., after an initial five-year renewal). As a result, these courts have refused to renew a protective order after its initial five-year renewal, leaving victims of domestic violence with no legal protection from their abusers. Given that the statute does not prohibit multiple renewals, it is unclear why courts believe they are not authorized to renew an order multiple times; there is no apparent basis for cutting off the court's discretion to renew an order after a second five-year period, particularly in light of the fact that orders can also be renewed on a permanent basis.

In order to eliminate any ambiguity about the court's authority to renew a previously renewed domestic violence protective order, this bill adds an explicit reference to "subsequent renewals" in the statute authorizing renewals.

FISCAL EFFECT: Appropriation: No Fiscal Com.: No Local: No

SUPPORT: (Verified 3/30/22)

California Association of Certified Family Law Specialists
California District Attorneys Association
California Partnership to End Domestic Violence
Family Violence Appellate Project

Little Hoover Commission
University of California, Irvine School of Law Domestic Violence Clinic

OPPOSITION: (Verified 3/30/22)

None received

ARGUMENTS IN SUPPORT: According to the University of California, Irvine School of Law Domestic Violence Clinic, writing in support:

> Attorneys and advocates working with domestic violence survivors across the state have identified the lack of judicial consistency and understanding about renewal of [domestic violence restraining orders (DVROs)] as problems endangering abuse victims. Currently, some judges do not think subsequent renewals of renewed DVROs are statutorily allowed, and they deny these renewal requests even when abused individuals face or fear ongoing abuse.
>
> For example, one of our Domestic Violence Clinic clients had this experience in November 2021, when a judge expressed that he did not want to "overrule" the prior judge who issued a five-year renewal instead of a permanent renewal. This judge stated that he did not think the law permitted him to issue a subsequent renewal even though the petitioner experienced ongoing reasonable apprehension of further abuse. While responding with the Legislature's protective purpose, we recognized the need for the clarification contained in SB 935…
>
> SB 935, introduced by Senator Min, will ensure that judges—who have significant discretion in renewal of restraining orders—recognize their power to award ongoing protection from abuse.

Prepared by: Allison Meredith / JUD. / (916) 651-4113
3/31/22 15:10:48

****** END ******

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CONSENT

Bill No: SB 937
Author: Ochoa Bogh (R)
Introduced: 2/7/22
Vote: 21

SENATE JUDICIARY COMMITTEE: 11-0, 3/29/22
AYES: Umberg, Borgeas, Durazo, Gonzalez, Hertzberg, Jones, Laird, McGuire, Stern, Wieckowski, Wiener

SUBJECT: Subpoenas: business records

SOURCE: Conference of California Bar Associations

DIGEST: This bill authorizes service of deposition subpoenas seeking the production of business records to be served by overnight delivery, facsimile transmission, or electronic means. This bill extends the corresponding deadline for compliance, as provided.

ANALYSIS:

Existing law:

1) Provides, through the Civil Discovery Act, procedures by which parties to a civil action conduct and obtain "discovery." (Code Civ. Proc. § 2016.010 et seq.)

2) Provides that generally any party may obtain discovery regarding any matter, not privileged, that is relevant to the subject matter involved in the pending action or to the determination of any motion made in that action, if the matter either is itself admissible in evidence or appears reasonably calculated to lead to the discovery of admissible evidence. (Code Civ. Proc. § 2017.010.)

3) Provides for various forms of discovery, including interrogatories, requests for admission, depositions, requests for physical or mental examinations, and requests for production of documents. The propounding party is authorized, on receipt of a response to various forms of discovery, to move for an order

compelling a further response if the propounding party deems the response inadequate or insufficient in some manner. (Code Civ. Proc. § 2025.010 et seq.)

4) Requires the service of a subpoena to be made by delivering a copy, or a ticket containing its substance, to the witness personally. (Code Civ. Proc. § 1987(a).)

5) Requires a deposition subpoena that commands only the production of business records for copying to designate the business records to be produced either by specifically describing each individual item or by reasonably particularizing each category of item, and to specify the form in which any electronically stored information is to be produced, if a particular form is desired. (Code Civ. Proc. § 2020.410(a).)

6) Provides that a deposition subpoena that commands only the production of business records for copying need not be accompanied by an affidavit or declaration showing good cause for the production of the business records designated in it. It shall be directed to the custodian of those records or another person qualified to certify the records. It shall command compliance in accordance with Section 2020.430 of the Code of Civil Procedure on a date that is no earlier than 20 days after the issuance, or 15 days after the service, of the deposition subpoena, whichever date is later. (Code Civ. Proc. § 2020.410(c).)

7) Provides that when a subpoena *duces tecum* is served upon the custodian of records or other qualified witness of a business in a civil action in which the business is neither a party nor the place where any cause of action is alleged to have arisen, and the subpoena requires the production of all or any part of the records of the business, it is sufficient compliance therewith if the custodian or other qualified witness delivers by mail or otherwise a true, legible, and durable copy of all of the records described in the subpoena within 15 days after the receipt of the subpoena or within the time agreed upon by the party who served the subpoena and the custodian or other qualified witness. (Evid. Code § 1560.)

This bill:

1) Authorizes a deposition subpoena that commands only the production of business records for copying to be served by overnight delivery, fax, or electronic means if the business expressly consents in writing.

2) Extends the time for compliance with a subpoena served by such methods by two days.

Background

The Civil Discovery Act provides various mechanisms to achieve its purposes, including interrogatories, requests for admission, and requests for production of documents. The parties may use these tools to obtain discovery regarding any relevant matter that is either admissible or likely to lead to evidence that is admissible. The goal is to provide the parties simple, practical, and inexpensive access to information to inform its position in any matter.

Currently, parties must personally serve deposition subpoenas seeking the production of business records. In response to concerns that personal delivery can be burdensome for both the party serving the request and the responding business, this bill additionally allows for service by overnight delivery, fax, or other electronic means. However, the business must first expressly consent in writing to receive service by such means. The law also prescribes the timeline for responding to such requests. This bill extends the deadline by two days when the subpoena is served by means other than personal delivery.

This bill is sponsored by the Conference of California Bar Associations. It is supported by the California District Attorneys Association. There is no known opposition.

Comments

The Civil Discovery Act

The Civil Discovery Act (Act) applies to every civil action and special proceeding of a civil nature, unless there is a statutory exception. (Code Civ. Proc. § 2016.010 et seq.) Discovery is the formal exchange of evidentiary information and materials between parties to a pending action. Generally, the Act permits any party to a civil action to obtain discovery regarding any matter, not privileged, that is relevant to the subject matter in the pending action or to the determination of any motion made in that action, if the matter either is admissible in evidence or appears reasonably calculated to lead to the discovery of admissible evidence. (Code Civ. Proc. § 2017.010.) Discovery may relate to the claim or defense of the party seeking discovery or of any other party to the action. Discovery may be obtained of the identity and location of persons having knowledge of any discoverable matter, as well as of the existence, description, nature, custody, condition, and location of any document, electronically stored information, tangible thing, or land or other property.

The intention of California's broad discovery statutes is to make discovery a "simple, convenient, and inexpensive" means of revealing the truth and exposing false claims, to "educate the parties concerning their claims and defenses so as to encourage settlements and to expedite and facilitate trial," and eliminate surprise. (*Greyhound Corp. v. Superior Court of Merced County* (1961) 56 Cal.2d 355, 376; *Emerson Elec. Co. v. Superior Court* (1997) 16 Cal.4th 1101, 1107.)

Easing Service Requirements

Primary devices to conduct discovery include interrogatories, depositions, requests for admissions, and requests for production. One method involves deposition subpoenas that command the production of business records. Such subpoenas must designate the business records to be produced either by specifically describing each individual item or by reasonably particularizing each category of item, and shall specify the form in which any electronically stored information is to be produced, if a particular form is desired. (Code Civ. Proc. § 2020.410.) Currently, such subpoenas must be personally served on the business.

The purpose of personal service is to ensure that a party over which the court seeks to exercise jurisdiction has in fact been properly notified. This bill allows service of this specific type of subpoena to be served by overnight delivery, fax, or electronic means. However, to continue to ensure no prejudice comes to the business being subpoenaed, these additional methods of service can only be effectuated after the business provides express written consent to receive service in the relevant manner. This bill also extends the period for complying with the subpoena by two days.

This promotes the goals of the Act to create a simple and convenient process by allowing for more accessible and less burdensome forms of service where agreed to by the relevant parties involved.

Stated Intent of the Bill

According to the author:

> In many cases, California laws surrounding the delivery of court documents are outdated. They were written in a time prior to the electronic age we are living in now. As such, in many instances the law requires delivery of court documents to be done in person only. Technological advances over the years have made this unnecessary, more costly for litigants and third parties whose documents are sought, and inefficient. This is the case when it comes to the service of business

records subpoenas. In person delivery can be very burdensome for both parties involved in these situations. Businesses are required to have someone available at all times who can accept a subpoena on behalf of the business. The party to the lawsuit issuing the subpoena has to find a time when someone is available at the business to accept the subpoena and then travel to the business to deliver. For a smaller business, in person service may not be practical or feasible. As a result of the COVID-19 pandemic, more and more businesses are moving to remote work models permanently. In fact, many businesses operate completely remotely without any employees on site. This makes in person delivery even more of a challenge. Senate Bill 937 allows for delivery of business records subpoenas by facsimile transmission, overnight delivery, or electronic means if the subpoenaed party consents. If the business accepts service by one of these methods, it has two additional days to produce the requested records. This bill will bring the methods of service into the modern era, improving civil litigation efficiency, saving the parties time and money, and streamlining service on businesses that do not have a method of accepting personal service.

FISCAL EFFECT: Appropriation: No Fiscal Com.: No Local: No

SUPPORT: (Verified 3/30/22)

California Conference of Bar Associations (source)
California District Attorneys Association

OPPOSITION: (Verified 3/30/22)

None received

ARGUMENTS IN SUPPORT: The California Conference of Bar Associations argues: "SB 937 would provide a necessary update to Code to reflect the changing, technologically advanced, businesses in the state, while providing an opportunity for other businesses to opt out and continue receiving subpoenas by traditional personal service."

Prepared by: Christian Kurpiewski / JUD. / (916) 651-4113
3/31/22 15:10:49

****** END ******

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THIRD READING

Bill No: SB 939
Author: Pan (D), et al.
Amended: 3/15/22
Vote: 21

SENATE HEALTH COMMITTEE: 9-1, 3/23/22
AYES: Pan, Eggman, Gonzalez, Hurtado, Leyva, Limón, Roth, Rubio, Wiener
NOES: Grove
NO VOTE RECORDED: Melendez

SUBJECT: Prescription drug pricing

SOURCE: APLA Health
CaliforniaHealth + Advocates

DIGEST: This bill prohibits payers and drug manufacturers from imposing requirements, conditions, or exclusions that discriminate against certain health care entities participating in a federal drug discount program, including contracted pharmacies of the health care entities.

ANALYSIS:

Existing federal law:

1) Requires drug manufacturers to limit the price of outpatient drugs purchased by a covered entity (CE), as specified, in order for the outpatient drugs to be covered by Medicaid. This is referred to as the federal 340B Drug Pricing Program. [42 U.S.C. §256b]

2) Defines "CEs" as an entity below that also meets specified requirements:
   a) A Federally Qualified Health Center (FQHC);
   b) An entity receiving a grant under specified federal law;
   c) A family planning project receiving a grant or contract under federal law;
   d) An entity receiving a grant for outpatient early intervention services for HIV disease;

e) A state-operated AIDS drug purchasing assistance program, as specified;
f) A black lung clinic, as specified;
g) A comprehensive hemophilia diagnostic treatment center, as specified;
h) A Native Hawaiian Health Center, as specified;
i) An urban Indian organization, as specified;
j) Any certified entity receiving assistance under specified federal law;
k) A certified entity receiving federal funding relating to treatment of sexually transmitted disease, or tuberculosis, as specified;
l) Specified hospitals that are owned or operated by government, a public or private non-profit corporation granted government powers, or private non-profit hospital under contract with government to provide health care services to low-income individuals who are not entitled to benefits under Medicare or Medicaid; had a specified disproportionate share adjustment percentage or was described in a specified section of federal law; and does not obtain covered outpatient drugs through a group purchasing organization or other group purchasing arrangement;
m) A children's hospital, or, a free-standing cancer hospital, excluded from Medicare prospective payment system, as specified;
n) An entity that is a critical access hospital, as specified, and,
o) An entity that is a rural referral center, or a sole community hospital, and that meets other requirements, as specified. [42 U.S.C. §256b]

Existing state law defines a "qualifying nonhospital 340B community clinic" as a licensed center or clinic, as specified, or a clinic operated by a city, county, city and county, or hospital authority that is exempt from licensure, as specified, and that is a 340B CE under federal law for the duration of each applicable fiscal year for which the Department of Health Care Services implements 3) through 5) above. [WIC §14105.467]

This bill:

1) Prohibits a pharmacy benefit manager (PBM) from imposing any requirements, conditions, or exclusions that discriminate against a CE or a specified pharmacy in connection with dispensing covered drugs, or, preventing a CE from retaining the benefit of discounted pricing for the purchase of covered drugs.

2) Defines "discrimination" as including all of the following:
   a) Payment terms, reimbursement methodologies, or other terms and conditions that distinguish between covered drugs and other drugs, account for the availability of discounts under the federal 340B discount drug purchasing program in determining reimbursement, or are less favorable than the

payment terms or reimbursement methodologies for similarly situated entities that are not furnishing or dispensing covered drugs;
   b) Terms or conditions applied to CEs or specified pharmacies based on the furnishing or dispensing of covered drugs or their status as a CE or specified pharmacy, including restrictions or requirements for participation in standard or preferred pharmacy networks, or requirements related to the frequency or scope of audits;
   c) Requiring a CE or specified pharmacy to identify, either directly or through a third party, covered drugs or covered drug costs;
   d) Refusing to contract with, or terminating a contract with, a CE or specified pharmacy, or otherwise excluding a CE or specified pharmacy from a standard or preferred network, on the basis that the entity or pharmacy is a CE or a specified pharmacy or for reasons other than those that apply equally to entities or pharmacies that are not a CE or specified pharmacies;
   e) Retaliation against a CE or specified pharmacy based on its exercise of any right or remedy under this bill; and,
   f) Interfering with an individual's choice to receive a covered drug from a CE or specified pharmacy, whether in person or via direct delivery, mail, or other form of shipment.

3) States that 2) above does not apply to the Medi-Cal or Medicare programs, but does apply to entities that contract with Medi-Cal or Medicare if they meet the definition of a payer and have discretion to negotiate or establish rates of payments for drugs.

4) Requires a drug manufacturer to comply with federal pricing requirements set forth in federal law when selling covered drugs to CEs located in California, and prohibits a drug manufacturer from imposing any preconditions, limitations, delays, or other barriers to the purchase of covered drugs that are not required under federal law, or any rules or regulations adopted thereunder.

5) Defines arrangements prohibited in 4) above as all of the following:
   a) Implementation of policies or limitations that restrict the ability of a CE or specified pharmacies to dispense covered drugs, including restrictions on the number or type of locations through which covered drugs may be dispensed by or on behalf of a CE;
   b) Conditioning the sale of covered drugs for a CE on enrollment with third-party vendors or on the sharing of claims information or other data;
   c) Charging CEs for covered drugs at amounts above the federal ceiling price, including policies that condition discounts on rebate requests;

d) Delays in shipping covered drugs compared to drugs that are not discounted; and,
e) Retaliation against a CE or specified pharmacy based on its exercise of any right or remedy under this bill.

6) Defines specified pharmacy as a pharmacy owned by, or under contract with, a CE that is registered with the 340B discount drug purchasing program to dispense covered drugs on behalf of the covered entity, whether in person or via mail.

7) Requires this bill to be implemented to the extent that it is not inconsistent with federal law, or any rules or regulations adopted thereunder.

Comments

According to the author, the federal 340B Drug Pricing Program is an essential source of support for Community Health Centers (CHCs), which are CEs that are allowed to purchase outpatient drugs at significantly reduced costs, facilitating the ability for health centers and other CEs to pass the savings on to their patients through reduced drug prices and invest additional savings to expand access and improve health outcomes. This bill is needed to protect CHCs from discriminatory actions by PBMs and others who are employing actions to interfere with the 340B discounts provided to CEs.

340B program background. The 340B Drug Pricing Program is named for the statutory provision authorizing it in the federal Public Health Services Act. The federal 340B Drug Pricing Program, established in 1992, requires drug manufacturers to provide discounts on the outpatient prescription drugs they sell to certain eligible health care providers, referred to as "CEs." Under 340B, discounted prescription drugs are available to CE patients regardless of payer. Under federal law, CEs may dispense or arrange for the dispensing of 340B prescription drugs to their own patients, regardless of who ultimately pays for the prescription drugs. As such, the 340B discounts apply regardless of whether the CE is ultimately reimbursed for the dispensed prescription drugs by Medicaid, Medicare, commercial health insurance, or the patient. The 340B program provides significant discounts for CEs. The 340B program generally requires CEs to receive prescription drug discounts that reduce the prices paid by a CE to at least the lower of a) the best price offered to most public and private entities; or b) the average manufacturer sales prices minus a percentage of between 13% and 23.1% (depending on the type of the prescription drug).

In 2015, CEs were estimated to have saved around $6 billion on prescription drugs through the 340B program. Net of the 340B discounts, CEs are estimated to have spent over $12 billion on 340B prescription drugs in 2015. CEs retain a portion of 340B savings. 340B savings result from the lower relative cost of 340B prescription drugs compared to non-340B drugs. Ultimately, savings resulting from the 340B program are likely shared by multiple participants in the health care system rather than entirely retained by CEs themselves. CEs retain 340B savings by charging external payers of 340B prescription drugs, such as health insurers, prices that are higher than the 340B prices at which they acquired the drugs. The 340B program does not place restrictions on how CEs may use any retained savings. To the extent CEs charge external payers lower prices for prescription drugs than they would have if the drugs had been purchased without the 340B discounts, then these external payers benefit from the 340B discounts as well.

2021 GAO report. Participation in the 340B program has grown from nearly 9,700 CEs in 2010 to 12,700 CEs in 2020. According to the federal Health Resources and Services Administration (HRSA), about 80% of CEs are grantees (e.g., a family planning clinic), and 20% are hospitals. Since the establishment of the 340B program, participation of these CEs has been contingent on compliance with statutory program requirements; HRSA has issued interpretive guidance and statements of policy to assist CEs in complying. For example, CEs must maintain compliance with the statutory definitions pertaining to eligibility to continue participating in the program. CEs are also prohibited from diverting 340B drugs, that is, transferring 340B drugs to individuals who are not eligible patients of the CEs. Finally, CEs cannot subject manufacturers to duplicate discounts in which drugs prescribed to Medicaid beneficiaries are subject to both the 340B price and a rebate through the Medicaid Drug Rebate Program. To oversee CEs continued compliance with these requirements, HRSA implemented in fiscal year 2012 a systematic approach for auditing covered entities. HRSA issues findings for noncompliance with 340B program requirements based on information gathered through its audit process. CEs must address findings to avoid termination from the program. As of September 2020, HRSA finalized over 1,240 audits conducted from fiscal years 2012 through 2019, and almost 900 of them resulted in at least one finding. With respect to contract pharmacies, as part of the HRSA's quarterly program integrity checks from fiscal years 2017 through 2019, less than 2% of the 589 contract pharmacy arrangements reviewed were terminated because a CE failed to provide HRSA the contract.

Pharmaceutical Research and Manufacturers of America study. A 2020 study funded by PhRMA suggests that the 340B program has evolved into a "profit-centric corporate initiative" and that half of the twenty largest for-profit

corporations in the United States are active participants through contract pharmacy arrangements. The study says the average profit margin on 340B medicines commonly dispensed through contract pharmacies is an estimated 72%, compared with just 22% for non-340B medicines dispensed through independent pharmacies.

FISCAL EFFECT: Appropriation: No Fiscal Com.: No Local: No

SUPPORT: (Verified 3/23/22)

APLA Health (co-source)
CaliforniaHealth + Advocates (co-source)
AIDS Healthcare Foundation
Alameda Health Consortium
AltaMed
Asian Health Services
Bay Area Community Health
California Retired Teachers Association
California Telehealth Network
Centers for Family Health and Education
Community Clinic Association of Los Angeles County
Community Health Association Inland Southern Region
Community Health Partnership
Community Medical Centers, Inc.
Community Medical Wellness Centers USA
Comprehensive Community Health Centers
DAP Health
Eisner Health
El Proyecto del Barrio, Inc.
End the Epidemics
Gardner Health Services
Golden Valley Health Center
Health & Life Organization, Inc.
Health Center Partners of Southern California
Indian Health Center of Santa Clara Valley
Inland Behavioral and Health Services, Inc.
Kheir Clinic
La Clinica de la Raza, Inc.
LifeLong Medical Care
Los Angeles LGBT
Marin Community Clinic
North Coast Clinics Network

North East Medical Services
Northeast Valley Health Corporation
OCHIN
Planned Parenthood Affiliates of California
Planned Parenthood Mar Monte
QueensCare Health Centers
Redwood Community Health Coalition
Saban Community Clinic
Sacramento Native American Health Center
San Francisco Community Clinic Consortium
San Ysidro Health
Shasta Community Health Center
Sierra Family Health Center
South Central Family Health Center
St. John's Community Health
TCC Family Health
The Health Alliance of Northern California
Trucare
Unicare Community Health Centers, Inc.
Venice Family Clinic
Vista Community Clinic
WellSpace Health
West Oakland Health
Westside Family Health Center

OPPOSITION: (Verified 3/28/22)

America's Health Insurance Plans
Association of California Life and Health Insurance Companies
Biocom California
Biotechnology Innovation Organization
California Association of Health Plans
Pharmaceutical Care Management Association
Pharmaceutical Research and Manufacturers of America
UCB, Inc.

ARGUMENTS IN SUPPORT: APLA Health and CaliforniaHealth + Advocates, sponsors of this bill, and other proponents write that the 340B Program allows CEs to capture program "savings" that can be used to support non-billable services and infrastructure that lead to improved health outcomes, including patient navigation, transportation, and other critical services. Covered entities include FQHCs, AIDS

drug assistance programs, Ryan White HIV clinics, Title X family planning clinics, STD clinics, and certain hospitals, among others. The 340 Program is particularly impactful for providers who serve people living with and at risk for HIV because of the historically high price of HIV prevention and treatment drugs. Over the past several years, CEs have grown increasingly concerned about efforts by PBMs, drug manufacturers, and other for-profit entities to undermine the benefits of the 340B Program. PBMs, for example, have attempted to take 340B savings away from safety-net providers and their patients through discriminatory contracting and "pick pocketing" practices. These terms refer to a range of practices employed by PBMs and other for-profit middlemen to divert 340B savings away from CEs and their patients. While the details of these practices vary, the most common way is for an outside group with whom CEs must do business, like PBMs, to force them to accept contracts that offer lower reimbursement for drugs simply because they were purchased under 340B. To date, 17 states have enacted legislation to protect 340B CEs from discrimination by PBMs. This bill will similarly protect against these discriminatory actions by requiring that PBMs treat 340B providers as they do any other pharmacy provider. Since June 2021, 14 manufacturers have taken actions to limit the use of contract pharmacies by CEs. These actions undermine the health care safety net and threaten the health of millions of low-income and rural Californians who rely on contract pharmacies to access medication.

ARGUMENTS IN OPPOSITION: The Biotechnology Innovation Organization (BIO) writes that this bill will prohibit biopharmaceutical manufacturers participating in the 340B program from establishing requirements or standards intended to ensure compliance with federal laws. BIO has very serious concerns with these provisions, which would enact state requirements in an exclusively federal program and would preclude legitimate efforts to ensure transparency and integrity in the 340B program. BIO also indicates that this bill will prohibit PBMs from requiring pharmacies to identify claims where a drug discounted under the 340B Program has been dispensed to a patient. BIO opposes this provision because it would make it more difficult for payers and manufacturers to identify illegal duplicate discounts and diversion of 340B drugs. Pharmaceutical Care Management Association, the Association of California Life and Health Insurance Companies, America's Health Insurance Plans, and the California Association of Health Plans request amendments that (b)(3) be stricken and the following added to the end of section (b)(2): *This shall not prohibit requiring a covered entity or specified pharmacy to identify drugs dispensed under the 340B program.*

Prepared by: Teri Boughton / HEALTH / (916) 651-4111
3/30/22 16:13:30

****** END ******

SENATE RULES COMMITTEE SB 940
Office of Senate Floor Analyses
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THIRD READING

Bill No: SB 940
Author: Laird (D)
Introduced: 2/8/22
Vote: 21

SENATE JUDICIARY COMMITTEE: 8-2, 3/29/22
AYES: Umberg, Durazo, Gonzalez, Laird, McGuire, Stern, Wieckowski, Wiener
NOES: Borgeas, Jones
NO VOTE RECORDED: Hertzberg

SUBJECT: Mobilehome parks: local ordinances

SOURCE: Golden State Manufactured-Home Owners League

DIGEST: This bill modifies the definition of new mobilehome construction and thereby narrows the circumstances in which state law preempts the application of local mobilehome rent control laws to recently developed mobilehome sites.

ANALYSIS:

Existing law:

1) Establishes the Mobilehome Residency Law (MRL) which regulates the rights, responsibilities, obligations, and relationships between mobilehome park management and park residents. (Civ. Code §§ 798 *et seq*.)

2) Preempts the application of local ordinances regulating mobilehome rent to "new construction," defined as any newly constructed space initially held out for rent after January 1, 1990. (Civ. Code §§ 798.45 and 798.7.)

This bill:

1) Redefines "new construction," for purposes of the MRL, to mean any newly constructed spaces initially held out for rent after January 1, 1990, and before January 1, 2023.

2) Defines "new mobilehome park construction," for purposes of the MRL, to mean a mobilehome park initially held out for rent on or after January 1, 2023, where "initially held out for rent" means the date when at least one space in that park's original construction is held out for rent for the first time.

3) Provides that "new construction" shall be exempt from local mobilehome rent control laws only until the first date following January 1, 2023, on which the rental agreement for that space is renewed, extended, or terminated.

4) Provides that "new mobilehome park construction," shall be exempt from local mobilehome rent control laws for a period of 10 years from the date when at least one space in that park's original construction was held out for rent for the first time.

Comments

Policy Rationale for Rent Control Exemptions for New Construction

A key criticism of blanket rent control measures is that they have the potential to discourage the construction of new housing. The idea is that developers may shy away from building new rental housing units if they know that rent control could limit the return they can get for their investment.

For this reason, many rent control laws, both state and local, contain an exception for newly constructed housing. For example, AB 1482 (Chiu, Chapter 597, Statutes of 2019), the statewide prohibition on sudden, large rent increases enacted by the Legislature in 2019 includes an exception for any housing for which a certificate of occupancy was issued in the past 15 years. (Civ. Code § 1947.12(d)(4).) Similarly, Civil Code Section 1954.52, also known as "Costa-Hawkins," prevents local jurisdictions from applying rent control to rental housing built after February 1, 1995.

Like these examples, existing state law governing mobilehomes contains a provision preempting the application of local mobilehome rent control laws to "new construction." (Civ. Code § 798.45.) That provision, enacted by the Legislature in 1989, defines "new construction" as any mobilehome space initially held out for rent on or after January 1, 1990. (SB 1241, Leonard, Chapter 412, Statutes of 1989.)

From the author and sponsors' point of view, that definition of "new" mobilehome contstruction is problematic. In the first several years after enactment, this definition made logical sense, since any spaces constructed in those years were, at the time, new. Obviously, however, defining "new" relative to a fixed date means

that, in time, even construction that is rather old still qualifies as "new." As a result, older mobilehome parks remain exempt from local rent control even though the developer may long since have achieved the return on the original investment that motivated construction of the park in the first place.

In an attempt to address this problem while avoiding the discouragement of new mobilehome park development, this bill maintains the concept of protecting "new" mobilehome parks from the imposition of local rent control ordinances, but replaces the definition based on an arbitrary date with a rolling window. Under this bill, what constitutes a "new" mobilehome park would automatically update with the passage of time. Accordingly, recently built mobilehome parks would be exempt from local rent control, but would eventually lose that exemption as they age beyond the rolling window.

Selecting the Right Rolling Window Length to Avoid Discouraging New Mobilehome Construction

As previously discussed, the policy rationale behind exempting new construction from rent control laws is to help housing developers feel confident that they will be able to achieve sufficient return on their investment to make it worthwhile financially. Assuming that this policy rationale is sound – as this bill and many rent control laws do – the next logical question is how long this exemption should last. Too short a period could risk discouraging the construction of desperately needed housing supply; too long a period would likely undermine the meaningful expansion of housing that is sustainably affordable.

As it is currently written, this bill creates a 10-year exemption period for new mobilehome construction. The author and sponsors selected that length of time after consulting with a number of people knowledgeable about, and experienced in, mobilehome financing. According to these sources, the author and sponsor report, 10 years is generally a safe estimate for how long it will take a park developer to realize a reasonable return on the investment.

For their part, the opponents of this bill believe that a 10-year rolling window is too short and would still discourage the development of new mobilehome parks. They point out that the Legislature ultimately settled on a 15-year rolling exemption for new construction when it enacted statewide anti-rent-gouging laws in the context of "stick built" (that is, non-mobilehome) rental housing. If anything, this bill's opponents contend, new mobilehome parks developments require longer to realize a return than stick built housing. According to the Western Manufactured Homeowners Association (WMA):

> Unlike apartment communities, mobilehome parks often require months or years to build spaces, populate spaces and begin to receive a profit on investments made. While an apartment community can fully rent units in a new development in a manner of weeks, and be fully occupied on day 1, mobilehome parks require homes to be manufactured, delivered, and installed on a space-by-space basis. […] Unless the owner completely tries and gouges the incoming resident, it would be impossible for that landlord to make back his or her investment in 10 years before rent control overlay would be implemented.

Ultimately, however, how much impact local rent control ordinances actually have on the development of new mobilehome parks is debatable. Both the proponents and opponents of this bill agree that new mobilehome park construction has been anemic in California for many years. They draw opposite conclusions from that fact, however. Opponents of this bill argue that allowing local rent control to apply more widely will only exacerbate the problem. The author and sponsors of this bill, conversely, point to the same lack of recent new mobilehome construction and conclude that local rent control must not be the real obstacle. After all, they highlight, state law has preempted the application of local rent control to new mobilehome construction since 1990, so local rent control measures cannot be the explanation for the dearth of new mobilehome construction since that time.

Eliminating Differences in the Application of Local Rent Control within Parks

In addition to the fact that existing law defines "new construction" in relation to a fixed date, another aspect of the current state preemption of local mobilehome rent control troubles the author and sponsor of this bill. The current preemption on local rent control ordinances applies not just to new mobilehome parks, but also to new mobilehome spaces added to existing parks. That means that, in parks built prior to 1990, local rent control laws applicable to the original part of the park do not apply to any post-1990 additions. As a result, neighbors may pay very different amounts in rent for the same basic amenities, depending only on when their particular spaces were incorporated into the park. For example, one of the supporters of this bill, the Mesa Dunes Homeowner's Association, Inc., reports that:

> Our park opened in 1974 with 186 spaces; 118 spaces were added in 1999. We have mobile homes under rent control protection next to and/or across the street from homes not covered by rent control. This inequity seriously impacts those living in more recently constructed spaces. Because park owners have required new residents to sign leases only about 30 of the original 186 spaces

are under rent control. None of the newer 118 spaces qualify for rent control and rents are escalating at an unbelievable rate.

To eliminate this sort of intrapark disparity in the application of rent control going forward, this bill treats entirely new mobilehome parks differently from new mobilehome spaces added to existing parks. Starting in 2023, entirely new mobilehome parks would be subject to the 10-year rolling exemption from local rent control. Mobilehome spaces newly added to an existing park would not. From the author and sponsors' point of view, treating the two scenarios differently can also be justified based on the relatively low cost of adding a new mobilehome space to an existing park in comparison with building out all the infrastructure required for an entirely new park.

On the other hand, if the immediate imposition of local rent control really does discourage investment, then the predominant effect of bill's proposal to exclude park expansions from the rolling 10-year preemption window might be to dissuade parkowners from pursuing such expansions altogether.

Locals Maintain Discretion about Whether or Not to Enact Local Mobilehome Rent Control in the First Place

This bill narrows the circumstances in which state law preempts the application of locally enacted mobilehome rent control ordinances. In that regard, it can be correctly characterized as increasing local control. At the same time, it is important to note that this bill is entirely neutral on the question of whether local jurisdictions should or should not impose mobilehome rent control in the first place. Nothing in this bill requires or encourages local jurisdictions to enact or maintain such ordinances. Local jurisdictions would retain complete discretion to impose mobilehome rent control or leave mobilehome rental rates in the hands of market forces, as they deem appropriate for their communities.

FISCAL EFFECT: Appropriation: No Fiscal Com.: No Local: No

SUPPORT: (Verified 3/30/22)

Golden State Manufactured-Home Owners League (source)
Mesa Dunes Homeowner's Association, Inc.

OPPOSITION: (Verified 3/30/22)

California Association of Realtors
California Mobilehome Parkowners Alliance
Western Manufactured Housing Communities Association

ARGUMENTS IN SUPPORT: According to the author:

> Mobilehomes are among the last forms of unsubsidized affordable housing in California. The state must do all we can to protect and preserve this type of housing for seniors, working families, veterans, and other community members on fixed incomes. Senate Bill 940 advances California's affordable housing goals by allowing locally passed rent protections to apply towards newly constructed mobile home spaces, and maintains an incentive for new mobilehome park construction by allowing for a 10-year exemption for spaces in those parks. This bill strikes the right balance among local governance, housing affordability and the creation of new housing units by retaining an incentive for the building of new mobilehome parks.

As sponsor of this bill, the Golden State Manufactured-Home Owners League writes:

> SB 940 asks the Legislature to ensure mobilehomes remain affordable by eliminating an outdated, state-imposed loophole created over thirty years ago that denies the ability of local jurisdictions to protect those homeowners from excessive rent increases.

In support of this bill, the Mesa Dunes Homeowner's Association, Inc., writes:

> This legislation should correct the inequity that now exists and help our local jurisdictions protect mobile home owners from excessive rent increases. […] Under SB 940 mobile home spaces added to parks after 1990 will now have the same protection from excessive rent increases as the other spaces in the park.

ARGUMENTS IN OPPOSITION: In opposition to this bill, the California Mobilehome Parkowners Alliance writes:

> Mobilehome parks are unique in the context of rent control. Mobilehome parkowners face a number of legal restrictions which make operating a park extremely challenging. This is reflected in the fact that while apartments and other forms of housing continue to be built, virtually no new mobilehome parks have been built in California in the last 60 years. Despite this, there are still opportunities to expand existing parks by constructing new spaces. This is important as housing in mobilehome parks is widely recognized as one of the few affordable housing options left in California. However, if SB 940 passes it is unlikely that parkowners will expand their parks. The prospect of new spaces being subject to rent control after only ten years leaves parkowners little

> opportunity to build and rent spaces in time to recuperate the cost of their investment let alone realize the same returns that they might if they invested in other less accessible forms of housing. That disincentive is not needed at a time when the state needs to expand its housing supply more than ever.

In further opposition to this bill, Western Manufactured Housing Communities Association writes:

> Unlike apartment communities, mobilehome parks often require months or years to build spaces, populate spaces and begin to receive a profit on investments made. While an apartment community can fully rent units in a new development in a manner of weeks, and be fully occupied on day 1, mobilehome parks require homes to be manufactured, delivered, and installed on a space-by-space basis. […] Unless the owner completely tries and gouges the incoming resident, it would be impossible for that landlord to make back his or her investment in 10 years before rent control overlay would be implemented.

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3/31/22 15:10:49

****** END ******

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CONSENT

Bill No: SB 956
Author: Wieckowski (D)
Introduced: 2/9/22
Vote: 21

SENATE JUDICIARY COMMITTEE: 11-0, 3/29/22
AYES: Umberg, Borgeas, Durazo, Gonzalez, Hertzberg, Jones, Laird, McGuire, Stern, Wieckowski, Wiener

SUBJECT: Enforcement of money judgments: exemptions

SOURCE: Author

DIGEST: This bill simplifies and clarifies implementation of a recent law that exempts contributions made to ScholarShare college savings accounts, up to specified limitations, from being taken away by judgment or bankruptcy creditors.

ANALYSIS:

Existing law:

1) Provides that, except where property is expressly exempted from collection by law, all property of a judgment debtor is subject to enforcement of a money judgment. (Code Civ. Proc. § 695.010(a).)

2) Enables a judgment debtor to exempt from collection the categories of property set forth in Code of Civil Procedure sections 704.010 *et seq.* (Code Civ. Proc. § 703.010(a).)

3) Includes, among the exemptions set forth in Code of Civil Procedure sections 704.010 *et seq.*, contributions made to a ScholarShare account in the two years prior to the filing of a bankruptcy, up to a yearly maximum not to exceed the annual gift tax exclusion under Section 2503(b) of the Internal Revenue Code of 1986, as amended (currently $10,000). (Code Civ. Proc. § 705.105.)

4) Allows someone filing for bankruptcy to choose between the exemptions set forth in Code of Civil Procedure section 703.140, subdivision (b), or the exemptions set forth in the remainder of the chapter (including the exemptions in Code of Civil Procedure sections 704.010 *et seq*.). (Code Civ. Proc. § 703.140(a).)

5) Includes, among the exemptions set forth in Code of Civil Procedure section 703.140, subdivision (b), contributions made to a ScholarShare account in the two years prior to the filing of a bankruptcy, up to a yearly maximum not to exceed the annual gift tax exclusion under Section 2503(b) of the Internal Revenue Code of 1986, as amended (currently $10,000). (Code Civ. Proc. § 703.140(b)(12).)

6) Requires the Judicial Council to adjust the exemptions set forth in Code of Civil Procedure sections 703 *et seq.* and 704 *et seq.* for inflation every three years. (Code Civ. Proc., § 703.150.)

This bill:

1) Specifies that, with respect to the exemptions for ScholarShare contributions, the maximum amount that is exempt is determined by the date of the entry of the relevant money judgment or by the date on which the relevant bankruptcy petition is filed, as applicable.

2) Clarifies that the Judicial Council does not need to adjust the maximum amount of the exemption for ScholarShare contributions to account for inflation.

Comments

Background on debtor exemptions in California. When someone prevails in a lawsuit in California and the court orders the losing party to pay money to the winner, the order is known as a money judgment, the winner is known as the judgment creditor, and the loser is known as the judgment debtor. If the judgment debtor simply pays the required amount, the money judgment is satisfied and the matter is over. Frequently, however, the judgment debtor refuses or is unable to pay. In such a situation, the judgment creditor has a number of legal tools at their disposal to try to collect the money from the judgment debtor. The judgment creditor may seek to place a lien of the judgment debtor's property, levy against the judgment debtor's bank accounts, or garnish the judgment debtor's wages, among other things. At the same time that California law authorizes and facilitates

these tactics, it also shields or allows the judgment debtor to protect some parts of the judgment debtor's income and assets from being taken away. These legally protected income and assets are known as exemptions.

Exemptions play a variety of public policy purposes. Their primary purpose is to ensure that the while the judgment debtor may be forced to pay off some of all of what is owed, the judgment debtor and anyone who depends on the judgment debtor financially can still cover their basic needs. Exemptions sometimes also serve to ensure that collections efforts are not counterproductive, as they would be if, for example, they took a debtor's work tools away, thereby preventing the debtor from earning the income with which to pay off the debt.

The primary exemptions from collection of a money judgment are found at Code of Civil Procedure 704.010 et seq. These exemptions are sometimes referred to as the "704 exemptions." When a Californian declares bankruptcy, they can avail themselves of these same exemptions or opt instead to use a similar, but different set of exemptions pursuant to Code of Civil Procedure Section 703.140(b). This alternative set of exemption is sometimes known as the "703 exemptions."

What is a ScholarShare account? As described by the author:

> ScholarShare 529 serves as California's official state-sponsored 529 college savings plan. Named after Section 529 of the Internal Revenue Code, savings plans such as ScholarShare 529 provide families of all income levels with a diverse set of investment options, tax-deferred growth, and withdrawals free from state and federal taxes when used for qualified higher education expenses, such as tuition and fees, books, certain room and board costs, computer equipment and other required supplies.

Once established for a beneficiary, anyone may make contributions to a ScholarShare account, including the beneficiary, family members, friends, or anyone else who wishes to support the beneficiary's education goals financially.[1]

Recent legislation created new exemptions for contributions to ScholarShare accounts. With the recent enactment of SB 898 (Wieckowski, Chapter 81, Statutes of 2020), California added two new exemptions for contributions made to

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[1] *Plan Details & Information*, ScholarShare 529 **https://www.scholarshare529.com/plan/details.shtml** (as of Mar. 16, 2022).

ScholarShare accounts, one in the 704 exemptions and one in the 703 optional alternative exemptions for bankruptcy cases. The two exemptions are identical. Both provide that money held in a ScholarShare account owned by the judgment is exempt, with the limitation that, for the two years prior to the judgment debtors' bankruptcy filing, the exempt amount each year cannot exceed the Internal Revenue Service's annual gift tax exclusion.

Setting a single reference date for determining the applicable exemption limit. As discussed, SB 898 made some of a judgment debtor or a bankruptcy petitioner's contributions to a ScholarShare Account exempt from collection or the bankruptcy estate. At the same time, SB 898 limited the amount of that exemption to the federal government's maximum permissible annual gift tax exclusion. Since the maximum amount of the federal government's annual tax gift exclusion is subject to change, however, SB 898 went on to clarify that courts should apply the cap that was "in effect at the time of the contribution" to the ScholarShare account.

That formula is rather unwieldy, however, because contributions to a ScholarShare Account can be made at any time and by various people. Under the existing formula, therefore, courts would have to examine when each contribution was made and apply the corresponding IRS gift tax exclusion figure. To simplify things, this bill instead directs courts to apply the cap that was in effect at the time of the money judgment, in the case of judgment debtors, and at the time of the filing of the bankruptcy petition in the case of bankruptcy petitioners.

Ensuring Judicial Council need not make adjustments where unnecessary. Code of Civil Procedure Section 703.150 instructs the Judicial Council to adjust the dollar amount for a number of different debtors' exemptions for inflation every three years. Under existing law, that duty technically includes adjusting the exemptions now available for contributions to ScholarShare accounts, as authorized by SB 898. Because the cap on the exemption for ScholarShare contributions is a fixed number set forth in federal statute, however, it does not make sense for the Judicial Council to adjust the amount for inflation. Accordingly, as part of its clean up to SB 898, this bill also clarifies that the Judicial Council need not make inflationary adjustments to the ScholarShare contribution exemption.

FISCAL EFFECT: Appropriation: No Fiscal Com.: No Local: No

SUPPORT: (Verified 3/30/22)

California State Treasurer Fiona Ma

OPPOSITION: (Verified 3/30/22)

None received

ARGUMENTS IN SUPPORT: According to the author:

> SB 956 is a clean-up bill to SB 898 (2020) which sought to ensure that family college savings are protected from judgment creditors. SB 898 (2020) amended the California Code of Civil Procedures to expand the list of judgment exemptions under California bankruptcy law in order to include family savings in a ScholarShare 529 college savings plan account. SB 956 would specify that the exemption amount for money held in a Scholarshare account in a bankruptcy case would be in effect at the time of the filing of the debtor's petition for bankruptcy, and in cases of non-bankruptcy judgments, the effective date would be at the time of entry of the money judgment.

In further support of the bill, California State Treasurer Fiona Ma, Chair of the ScholarShare Investment Board, writes:

> I believe these clarifying amendments are simple and straightforward and will help avert confusion and possible misinterpretation of state law in the future. More importantly, however, these changes will ensure that we continue to safeguard what can be considered a family's most important asset – their children's college savings.

Prepared by: Timothy Griffiths / JUD. / (916) 651-4113
3/31/22 15:10:50

****** END ******

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CONSENT

Bill No: SB 1005
Author: Wieckowski (D)
Introduced: 2/14/22
Vote: 21

SENATE JUDICIARY COMMITTEE: 11-0, 3/29/22
AYES: Umberg, Borgeas, Durazo, Gonzalez, Hertzberg, Jones, Laird, McGuire, Stern, Wieckowski, Wiener

SUBJECT: Conservatorship: sale of personal residence

SOURCE: Author

DIGEST: This bill revises the provisions authorizing the sale of a conservatee's real property to specifically include the power to consent and agree to partition the personal residence or other real or personal property of the estate, and the power to bring an action for partition of the personal residence or other real or personal property of the estate; and subjects the partition of the conservatee's present or former personal residence to the same conditions as would be applicable to the sale of the residence under existing law.

ANALYSIS:

Existing law:

1) Provides procedures by which parties who share an interest in real and/or personal property may petition the court to partition the property, which may include the sale of the property and distribution of its proceeds. (Code Civ. Proc. Pt. 2, Tit. 5, §§ 872.010 et seq.)

2) Establishes the Guardianship-Conservatorship Law, which governs the establishment of certain guardianships and conservatorships. (Prob. Code Div. 4, Pts. 1-4, §§ 1400 et seq.)

3) Authorizes the appointment of a conservator of a person's estate for a person who is found, by clear and convincing evidence, to be substantially unable to

manage their own financial resources or resist fraud or undue influence. (Prob. Code § 1801.)

4) Authorizes a conservator of an estate to take various actions relating to the estate property for the benefit of the conservatee. (Prob. Code Div. 4, Pt. 4, Ch. 6, §§ 2400 et seq.)

5) Requires a guardian or conservator to obtain a court order authorizing them to bring an action against the other cotenants for partition of any property in which the ward or conservatee has an undivided interest.

   a) The court may issue the order ex parte or in response to a petition filed by the guardian or conservator.

   b) The guardian or conservator need not obtain a court order before bringing a partition action when:

      i) The court has already expressly issued an order authorizing a partition and set-off to the estate; or

      ii) The ward or conservatee, or the guardian or conservator in that capacity, is made a defendant in a partition action, the guardian or conservator may defend the action without the authorization of the court. (Prob. Code, §§ 2463, 2500.)

6) Establishes a presumption that the personal residence of a conservatee at the time the conservatorship proceeding begins is the least restrictive appropriate residence for the conservatee; in a hearing to determine whether the conservatee should be removed from their personal residence, that presumption can be overcome by clear and convincing evidence to the contrary. (Prob. Code § 2352.5(a).)

7) Provides that, except for the sale of a conservatee's present or formal personal residence, a conservator's sale of estate property are required to be conducted with the authorization, confirmation, or direction of the court, as specified. (Prob. Code § 2540(a).)

8) Provides that, before a conservator may sell the conservatee's present or former personal residence, the conservator must inform the court of the following:

   a) That the sale has been proposed and that the proposed sale has been discussed with the conservatee;

b) Whether the conservatee supports or opposes the sale;

c) Why the sale is necessary;

d) Whether the conservatee has the ability to live in the home; and

e) Why other alternatives, including in-home care services, are not available. (Prob. Code § 2540(b).)

9) Permits the court, in its discretion, to require the court investigator to discuss the proposed sale with the conservatee. (Prob. Code, § 2540(b).)

10) Requires the conservator to provide court with the notice set forth in 6) before the conservator commits significant resources to the proposed sale, unless the conservator can establish that the conservatee has the capacity to, and unequivocally does, consent to the sale, or that exigent circumstances required the conservator to commit resources to the sale prior to court approval. (Prob. Code § 2540(c).)

11) Authorizes a guardian or conservator to sell real or personal property of the estate in the following cases:

a) Where the income of the estate is insufficient for the comfortable and suitable support, maintenance, and education of the ward or conservatee or of those legally entitled to support, maintenance, or education from the ward or conservatee;

b) Where the sale is necessary to pay specified debts; or

c) Where the sale is for the advantage, benefit, and best interest of the ward or conservatee, the estate, or those legally entitled to support, maintenance, or education from the ward or conservatee. (Prob. Code § 2541.)

12) Provides that, notwithstanding the factors in item 10), a court may authorize a conservator to sell a conservatee's present or former personal residence only if the court finds by clear and convincing evidence that the conservator demonstrated a compelling need to sell the residence for the benefit of the conservatee. (Prob. Code § 2541.5.)

13) Provides that a court may make an order granting a conservator with certain powers to act without prior court authorization, including to sell the personal residence of the conservatee without confirmation of the court of the sale.

a) Any sale of the conservatee's personal residence remains subject to the limitations set forth in 8)-10). (Prob. Code §§ 2590-2591.)

b) A conservator seeking an order granting the power to sell the conservatee's personal residence without court authorization must demonstrate to the court that certain aspects of the sale, including the price and estimated tax consequences, are in the best interests of the conservatee. (Prob. Code § 2591.5.)

This bill:

1) Provides that, in a partition action by the conservator where the subject property is the conservatee's present or former personal residence, the conservator's power to bring the action are subject to the statutory limitations on the sale of a personal residence set forth in 5)-12), above.

2) Provides that the requirements relating to a conservator's need to obtain a court authorization for the sale of a conservatee's personal residence, including the court's discretion to require an investigator's visit, also apply to an action for partition of a conservatee's present or former personal residence.

3) Provides that the cases in which a guardian or conservator may sell the real or personal property of a ward or conservator are also the cases in which a conservator's consent to, or action for, partition of real or personal property of the estate.

4) Provides that the circumstances in which a conservator may obtain pre-authorization from the court to sell the conservatee's present or former personal residence also apply to the conservator's consent to, or action for partition of, the conservatee's present or former residence; and that any such pre-authorization is also subject to the statutory limitations set forth in 5)-12), above.

Background

A conservator acts as the fiduciary of their conservatee and is tasked with exercising ordinary care and diligence in managing the conservatee's estate.[1] To ensure that someone is watching the watchers, conservators remain under the control and continuing jurisdiction of the courts for the duration of the

[1] Prob. Code, §§ 2101, 2401. This bill and this analysis's discussion of it also applies to the guardian-ward relationship; because few wards are in a position to own a personal residence, the discussion refers only to conservatees.

guardianship or conservatorship.[2] A conservator must obtain court approval before entering into specific transactions relating to the conservatee's property.

One area in which the court is required to conduct particular oversight is the sale of a conservatee's residence. A conservator may sell a conservatee's current or former residence only where the sale is necessary to pay specified debts of the conservatee, or where the sale is otherwise in the conservatee's best interest.[3] A conservator seeking to sell a conservatee's current or former residence must provide the court with certain information relating to the proposed sale, and the court may approve the sale only if it finds by clear and convincing evidence that there is a compelling need to sell the residence for the benefit of the conservatee.[4]

Three years ago, the Legislature enacted SB 303 to increase the safeguards around the sale of a conservatee's personal residence.[5] That bill, among other things, raised the conservatee's evidentiary burden for the sale from a preponderance of the evidence to clear and convincing evidence, and required a conservator to provide the court notice of the proposed sale before committing significant resources to the sale.[6] SB 303 left a potential loophole, however, in the heightened safeguards surrounding the sale of a conservatee's personal residence. Under current law, a conservator must obtain a court order before commencing a partition action relating to the conservatee's residence, but the conservator need not prove by clear and convincing evidence that the action is in the best interest of the conservatee.[7] Additionally, the statutes governing the sale of a residence do not unambiguously apply to circumstances where a conservator agrees to the partition of the conservatee's residence, such as in a partition action where the conservatee is a defendant.[8]

This bill is intended to close the potential partition loophole. Specifically, it extends the existing requirements relating to the sale of a conservatee's residence to a conservator's (1) agreement to partition the conservatee's residence, or (2) request to bring a partition action relating to the conservatee's residence. This bill also modifies the existing statute governing a conservator's partition action on behalf of the conservatee to clarify that, if the action relates to the conservatee's residence, the action is subject to the same requirements as a proposed sale of the conservatee's residence.

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[2] Prob. Code, § 2102; *Conservatorship of Presha* (2018) 26 Cal.App.5th 487, 497-498.
[3] Prob. Code, § 2541.
[4] *Id.*, §§ 2540, 2541.5.
[5] *See* SB 303 (Wieckowski, Ch. 847, Stats. 2019).
[6] *Ibid.*
[7] Prob. Code, § 2463.
[8] *See id.*, § 2463(c) (conservator may defend a partition action without authorization of the court).

FISCAL EFFECT: Appropriation: No Fiscal Com.: No Local: No

SUPPORT: (Verified 3/30/22)

Judicial Council of California
Professional Fiduciary Association of California

OPPOSITION: (Verified 3/30/22)

None received

ARGUMENTS IN SUPPORT: According to the Judicial Council of California:

> The Council supports SB 1005 because it provides consistency in probate proceedings related to the estate, including the primary residence, of the conservatee. As you know, current law establishes procedures for the same of a conservatee's primary residence when the conservatee is the sole owner of the primary residence. However, current law does not address the sale of a conservatee's interest in the primary residence when the conservatee is only a partial owner. SB 1005 seeks to harmonize the rules that apply to a conservator regarding the sale of the conservatee's primary residence, whether the ownership is shared or exclusive.

Prepared by: Allison Meredith / JUD. / (916) 651-4113
3/31/22 15:10:51

****** END ******

SENATE RULES COMMITTEE SB 1038
Office of Senate Floor Analyses
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THIRD READING

Bill No: SB 1038
Author: Bradford (D)
Introduced: 2/15/22
Vote: 21

SENATE PUBLIC SAFETY COMMITTEE: 4-1, 3/15/22
AYES: Bradford, Kamlager, Skinner, Wiener
NOES: Ochoa Bogh

SUBJECT: Law enforcement: facial recognition and other biometric surveillance

SOURCE: Author

DIGEST: This bill deletes the January 1, 2023 sunset date on provisions of law that prohibit a law enforcement officer from installing, activating or using a biometric surveillance system in connection with a body-worn camera or data collected by a body-worn camera.

ANALYSIS:

Existing law:

1) Declares that all people are by nature free and independent and have inalienable right, among which are enjoying and defending life and liberty, acquiring, possessing and protecting property, and pursuing and obtaining, safety, happiness and privacy. (Cal. Const., Art. 1, Sec. 1)

2) Declares that it is the intent of the Legislature to establish policies and procedures to address issues related to the downloading and storage data recorded by a body-worn camera worn by a peace officer; these policies and procedures shall be based on best practices. (Pen. Code, § 832.18, subd. (a).)

3) Encourages agencies to consider best practices in establishing when data should be downloaded to ensure the data is entered into the system in a timely manner, the cameras are properly maintained and ready for the next use, and

for purposes of tagging and categorizing the data. (Pen. Code, § 832.18, subd. (b).)

4) Encourages agencies to consider best practices in establishing specific measures to prevent data tampering, deleting, and copying, including prohibiting the unauthorized use, duplication or distribution of body-worn camera data. (Pen. Code, § 832.18, subd. (b)(3).)

5) Encourages agencies to consider best practices in establishing the length of time that recorded data is to be stored, and states that non-evidentiary data including video and audio recorded by a body-worn camera should be retained for a minimum of 60 days, after which it may be erased, destroyed, or recycled. This provision provides that an agency may keep data for more than 60 days to have it available in case of a civilian complaint and to preserve transparency. (Pen. Code, § 832.18, subd. (b)(5)(A).)

6) States that evidentiary data including video and audio recorded by a body-worn camera should be retained for a minimum of two years under any of the following circumstances:

    a) The recording is of an incident involving the use of force by a peace officer or an officer-involved shooting;

    b) The recording is of an incident that leads to the detention or arrest of an individual; or,

    c) The recording is relevant to a formal or informal complaint against a law enforcement officer or a law enforcement agency. (Pen. Code, § 832.18, subd. (b)(5)(B).)

7) States that the recording should be retained for additional time as required by law for other evidence that may be relevant to a criminal prosecution. (Pen. Code, § 832.18, subd. (b)(5)(C).)

8) Instructs law enforcement agencies to work with legal counsel to determine a retention schedule to ensure that storage policies and practices comply with all relevant laws and adequately preserve evidentiary chains of custody. (Pen. Code, § 832.18, subd. (b)(5)(D).)

9) Encourages agencies to adopt a policy that records or logs of access and deletion of data from body-worn cameras should be retained permanently. (Pen. Code, § 832.18, subd. (b)(5)(E).)

10) Encourages agencies to include in a policy information about where the body-worn camera data will be stored, including, for example, an in-house server that is managed internally, or an online cloud database that is managed by a third-party vendor. (Pen. Code, § 832.18, subd. (b)(6).)

11) Instructs a law enforcement agency using a third-party vendor to manage the data storage system, to consider the following factors to protect the security and integrity of the data:

    a) Using an experienced and reputable third-party vendor;

    b) Entering into contracts that govern the vendor relationship and protect the agency's data;

    c) Using a system that has a built-in audit trail to prevent data tampering and unauthorized access;

    d) Using a system that has a reliable method for automatically backing up data for storage;

    e) Consulting with internal legal counsel to ensure the method of data storage meets legal requirements for chain-of-custody concerns; and

    f) Using a system that includes technical assistance capabilities. (Pen. Code, § 832.18, subd. (b)(7).)

12) Encourages agencies to include in a policy a requirement that all recorded data from body-worn cameras are property of their respective law enforcement agency and shall not be accessed or released for any unauthorized purpose. Encourages a policy that explicitly prohibits agency personnel from accessing recorded data for personal use and from uploading recorded data onto public and social media Internet websites, and include sanctions for violations of this prohibition. (Pen. Code, § 832.18, subd. (b)(8).)

13) Defines several terms related to the prohibition contained in Penal Code Section 832.19(b). (Pen. Code, §832.19, subd. (a)(1)-(9).)

14) Prohibits a law enforcement agency or officer from installing, activating or using any biometric surveillance system in connection with an officer's body-worn camera or data collected by an officer's body-worn camera. (Pen. Code, §832.19, subd. (b).)

15) Provides that a person may bring an action for equitable or declaratory relief against a law enforcement agency or officer that violates the prohibition in Penal Code Section 832.19(b). (Pen. Code, §832.19, subd. (c).)

16) Provides that this prohibition does not preclude a law enforcement agency or officer from using a mobile fingerprint scanning device during a lawful detention to identify a person who does not have proof of identification, so long as the use of such device does not generate or result in the retention of any biometric data or surveillance information. (Pen. Code, §832.19, subd. (d).)

17) Provides that the prohibition contained in Penal Code Section 832.19 is effective only until January 1, 2023, and as of that date is repealed. (Pen. Code, §832.19, subd. (e).)

This bill:

1) Deletes the January 1, 2023 sunset on the provisions of law that prohibit the use of biometric surveillance systems in connection with body-worn cameras used by law enforcement and provide a cause of action for relief against agencies and officers that violate this prohibition.

2) Makes the following findings and declarations:

   a) Californians value privacy as an essential element of their individual freedom and are guaranteed a right to privacy in Section 1 of Article I of the California Constitution.

   b) Existing law, Section 832.19 of the Penal Code, has effectively protected privacy, safeguarded the rights of people exercising First Amendment rights, and prevented the misidentification of Californians and the creation of vulnerable biometric databases since January 1, 2020.

   c) Section 832.19 of the Penal Code has prevented the waste of critical public resources on ineffective mobile facial recognition programs, including a City of San Diego area facial recognition program that failed to produce a single arrest or prosecution in a seven-year period.

   d) Facial recognition and other biometric surveillance technology pose unique and significant threats to the civil rights and civil liberties of residents and visitors and would disproportionately pose a threat to marginalized Californians, including people of color and those living in highly policed

communities. The use of facial recognition would also diminish effective policing and public safety by discouraging people in these communities, including victims of crime and undocumented persons, from seeking police assistance or from assisting the police.

e) The use of facial recognition and other biometric surveillance is the functional equivalent of requiring every person to show a personal photo identification card at all times in violation of recognized constitutional rights. This technology also allows people to be tracked without consent. It would also generate massive databases about law-abiding Californians and may chill the exercise of free speech in public places.

f) Facial recognition and other biometric surveillance technology have been repeatedly demonstrated to misidentify women, young people, and people of color and to create an elevated risk of harmful "false positive" identifications. After the Legislature adopted Section 832.19 of the Penal Code, the federal government's gold standard test found that Asian and Black people continue to be 100 times more likely to be misidentified by facial recognition algorithms than white men.

g) Prominent technology companies like Microsoft, Amazon, and IBM are declining to sell facial recognition systems to law enforcement. Since the enactment of Section 832.19 of the Penal Code, the prominent body camera maker Axon has also rejected the use of facial recognition for body cameras, citing the potential inaccuracy and abuse.

h) Body cameras are fundamentally incompatible with biometric surveillance. This is due to a number of factors, including officers being in near-constant motion, resulting in blurry and low-quality images that will lead to more false matches, as well as the wide-angle images captured body cameras, which result in warped faces that facilitate additional false matches.

i) Facial and other biometric surveillance would corrupt the core purpose of officer-worn body-worn cameras by transforming those devices from transparency and accountability tools into roving surveillance systems.

Comments

According to the author, "Officer-worn body cameras are fundamentally incompatible with biometric surveillance, in part because officers are in near-

constant motion and because the wide angle of the images causes blurred and low-quality images that risks false matches and wrongful arrest. According to research by the National Institute of Standards and Technology (NIST), Asian and Black people were up to 100 times more likely to be misidentified by facial recognition than white men.

"Against this background, prominent technology companies like Microsoft, Amazon, and IBM have declined to sell facial recognition systems to law enforcement. Axon, the most prominent body camera maker has also specifically rejected the use of facial recognition for body-worn cameras, citing the potential inaccuracy and serious ethical concerns.

"In 2019, the Legislature passed AB 1215 to temporarily prohibit law enforcement in California from adding facial recognition and other biometric surveillance technology to officer-worn body cameras for use against the public. This protection is set to expire on January 1, 2023."

Despite growing concerns, law enforcement agencies at the federal, state and local level continue to use facial recognition programs. A recent Government Accountability Office report revealed that 20 federal agencies employ such programs, 10 of which intend to expand them over the coming years. Another recent study found that one in four law enforcement agencies across the country can access some form face recognition, and that half of American adults – more than 117 million people – are in a law enforcement face recognition network. Very few of these agencies have a formal facial recognition policy, but one such agency, the New York Police Department, defines the scope of its policy as follows: "Facial recognition technology enhances the ability to investigate criminal activity and increases public safety. The facial recognition process does not by itself establish probable cause to arrest or obtain a search warrant, but it may generate investigative leads through a combination of automated biometric comparisons and human analysis." Proponents of facial recognition technology see it as a useful tool in helping identify criminals. It was reportedly utilized to identify the man charged in the deadly shooting at The Capital Gazette's newsroom in Annapolis, Maryland in 2018.

The inaccuracy, biases and potential privacy intrusions inherent in many facial recognition systems used by law enforcement have led to criticism from civil rights advocates, especially in California. In March 2020, the ACLU, on behalf of a group of California residents, filed a class action lawsuit against Clearview AI, claiming that the company illegally collected biometric data from social media and other websites, and applied facial recognition software to the databases for sale to

law enforcement and other companies. An investigation by Buzzfeed in 2021 found that 140 state and local law enforcement agencies in California had used or tried Clearview AI's system. The controversy surrounding law enforcement use of facial recognition has led many California cities to ban the technology, including San Francisco, Oakland, Berkeley, Santa Cruz and Alameda.

In September 2021, the Los Angeles Times reported that the Los Angeles Police Department had used facial recognition software nearly 30,000 times since 2009, despite years of "vague and contradictory information" from the department "about how and whether it uses the technology." According to the Times, "The LAPD has consistently denied having records related to facial recognition, and at times denied using the technology at all." Responding to the report, the LAPD claimed that the denials were just mistakes, and that it was no secret that the department used such technology. Although the department could not determine how many leads from the system developed into arrests, it asserted that "the technology helped identify suspects in gang crimes where witnesses were too fearful to come forward and in crimes where no witnesses existed."

In 2019, the Legislature passed AB 1215 (Ting, Chapter 579, Statutes of 2019), which banned the use of facial recognition technology and other biometric surveillance systems in connection with cameras worn or carried by law enforcement, including body-worn cameras, for the purpose of identifying individuals using biometric data. This ban covers both the direct use of biometric surveillance by a law enforcement officer or agency, as well as a request or agreement by an officer or agency that another officer or agency, or a third party, use a biometric surveillance system on behalf of the requesting party. The ban also includes narrow exceptions for processes that redact a recording prior to disclosure in order to protect the privacy of a subject, and the use of a mobile fingerprint-scanning device to identify someone without proof of identification during a lawful detention, as long as neither of these functions result in the retention of biometric data or surveillance information. AB 1215 included a sunset date of January 1, 2023.

This bill asks the Legislature to consider whether the ban on biometric surveillance and facial recognition systems in connection with cameras worn or carried by officers should remain in effect indefinitely. At its core, this question involves balancing the purported investigatory benefits of facial recognition technology against its demonstrated privacy risks, technical flaws and racial and gender biases.

FISCAL EFFECT: Appropriation: No Fiscal Com.: No Local: No

SUPPORT: (Verified 3/16/22)

ACLU California Action
Alliance for Boys and Men of Color
Alliance San Diego
Asian Americans Advancing Justice – California
Asian Law Alliance
Asian Prisoner Support Committee
Black Alliance for Just Immigration
California Attorneys for Criminal Justice
California Coalition for Women Prisoners
California Immigrant Policy Center
California Nurses Association
California Public Defenders Association
Californians United for a Responsible Budget
Central American Resource Center
CHISPA
Communities United for Restorative Youth Justice
Courage California
Data for Black Lives
Electronic Frontier Foundation
Ella Baker Center for Human Rights
Human Impact Partners
ICE Out of Marin
Immigrant Legal Resource Center
Indivisible 49
Indivisible SF
Initiate Justice
Legal Services for Prisoners with Children
Media Alliance
National Association of Criminal Defense Lawyers
National Center for Lesbian Rights
PICO California
San Francisco Public Defender
Secure Justice
Sonoma County Democratic Party
Stop the Musick Coalition
Young Women's Freedom Center

OPPOSITION: (Verified 3/16/22)

Arcadia Police Officers Association
Burbank Police Officers Association
California State Sheriffs Association
Claremont Police Officers Association
Corona Police Officers Association
Culver City Police Officers Association
Fullerton Police Officers Association
Inglewood Police Officers Association
Los Angeles School Police Officers Association
Newport Beach Police Association
Palos Verdes Police Officers Association
Peace Officers Research Association of California
Placer County Deputy Sheriffs Association
Pomona Police Officers Association
Riverside Police Officers Association
Riverside Sheriffs Association
Santa Ana Police Officers Political Action Committee
Upland Police Officers Association

ARGUMENTS IN SUPPORT: According to Secure Justice:

> Face recognition-enabled police body cameras permit pervasive and ongoing surveillance of the public, registering and reporting who we are and where we go. Allowing face and biometric systems to be added to police body cameras would threaten the civil rights and civil liberties of all residents and visitors and pose a disproportionate threat to marginalized Californians, including people of color and those living in highly policed communities.
>
> Facial recognition has also been repeatedly demonstrated to misidentify women, young people and people of color. 2 Members of the California legislature and the California Congressional delegation have experienced this disproportionate error rate firsthand in tests comparing them against mug-shot databases. 3 Multiple Black men have been wrongfully arrested in other states due to false matches. If a police body camera with facial recognition misidentified a person, that error could misinform an officer's decision about how to approach a person or even use of deadly force. SB 1038 reinforces the California law that helps prevent similar life-changing mistakes.
>
> Finally, if California was to allow the use of body camera face surveillance, it would lead to the creation of face-recognition databases that are susceptible to

data breaches and are likely to be exploited by agencies like U.S. Immigration and Customs Enforcement (ICE) - an agency that has already demanded other states run face searches on its behalf. California has refused to create a surveillance network that invites anti-immigrant exploitation by the Federal government, and it should continue to stand for the rights of immigrants.

ARGUMENTS IN OPPOSITION: According to Peace Officers Research Association of California (PORAC):

PORAC uses facial recognition to identify criminals in situations where we know that a possible threat could occur in a crowd, or it's used on captured video to search for a dangerous criminal. The number of dangerous crimes thwarted by utilizing this technology completely justifies its continued use. Lastly, as technology evolves, it is essential for law enforcement to grow with it. Technology helps us do our jobs more efficiently and ultimately improves public safety.

Prepared by: Alex Barnett / PUB. S. /
3/16/22 13:51:29

****** END ******

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THIRD READING

Bill No: SB 1046
Author: Eggman (D) and Gonzalez (D)
Amended: 3/14/22
Vote: 21

SENATE ENVIRONMENTAL QUALITY COMMITTEE: 6-0, 3/28/22
AYES: Allen, Dahle, Gonzalez, Skinner, Stern, Wieckowski
NO VOTE RECORDED: Bates

SUBJECT: Solid waste: precheckout bags

SOURCE: Californians Against Waste

DIGEST: This bill prohibits, after an unspecified date, certain stores from providing a precheckout bag to a customer unless the bag is compostable or a recycled paper bag.

ANALYSIS:

Existing law:

1) Requires, under the Integrated Waste Management Act (IWMA), local governments divert at least 50% of solid waste from landfill disposal and establishes a statewide goal that 75% of solid waste be diverted from landfill disposal by 2020. (Public Resources Code (PRC) §§41780, 41780.01)

2) Prohibits a store from providing a single-use carryout bag to a customer at the point of sale unless it is a compostable bag under certain conditions. (PRC §42283(a), (e))

3) Defines a "store" as a retail establishment that is any of the following:

   a) A full-line, self-service retail store with gross annual sales of $2,000,000 or more that sells a line of dry groceries, canned goods, or nonfood items, and some perishable items.

b) Has at least 10,000 square feet of retail space that generates sales or use tax pursuant to the Bradley-Burns Uniform Local Sales and Use Tax Law and has a pharmacy.

c) Is a convenience food store, foodmart, or other entity that is engaged in the retail sale of a limited line of goods, generally including milk, bread, soda, and snack foods and holds a certain type of alcohol license.

d) Is a convenience food store, foodmart, or other entity engaged in the retail sale of goods intended to be consumed off the premises and that holds a certain type of alcohol license. (PRC §42280)

4) Authorizes a city, county, city and county, or state to impose civil liability on a person or entity that knowingly violates these provisions, or reasonably should have known that it violated these provisions in the amounts that increase as the of violations by that entity increase. (PRC §42285)

This bill:

1) Prohibits, additionally, the same stores, after an unspecified date, from providing a precheckout bag to a customer unless the bag is a recycled paper bag or meets already existing compostability content and labeling standards. Specifically, the compostability content and labeling standards are:

   a) Any of the following:

      i) ASTM Standard Specification for Labeling of Plastics Designed to be Aerobically Composted in Municipal or Industrial Facilities D6400, as published in 2019, and its revisions, as specified;

      ii) ASTM Standard Specification for Labeling of End Items that Incorporates Plastics and Polymers as Coatings or Additives with Paper and Other Substrates Designed to be Aerobically Composted in Municipal or Industrial Facilities D6868, as published in 2019, and its revisions as specified; or

      iii) OK compost HOME certification, as specified.

   b) Is readily and easily identifiable from other bags, as defined by existing law.

   c) Has certification from a third-party certification entity, given that:

      i) CalRecycle has approved a third-party certification entity for a standard specification pursuant to this bill; and,

ii) CalRecycle has approved of that certification entity at least one year prior, and not before January 1, 2024.

d) On and after January 1, 2026, is an allowable organic input under the requirements of the United States Department of Food and Agriculture's National Organic Program, as specified.

e) Does not contain perfluoroalkyl or polyfluoroalkyl substances above a specified limit.

f) Is labeled in a manner that distinguishes the product from a noncompostable product upon reasonable inspection by consumers and to help enable efficient processing by solid waste processing facilities.

g) Is designed to be associated with the recovery of desirable organic wastes.

2) Defines a "precheckout bag" as a bag provided to a customer before the customer reaches the point of sale, that is designed to protect a purchased item from damaging or contaminating other purchased items in a checkout bag, or to contain an unwrapped food item, such as, but not limited to, loose produce, meat or fish, nuts, grains, candy, and bakery goods. Does not include a bag used to prepackage items prior to its arrival to the store.

Background

1) *Waste management in California.* For three decades, CalRecycle has been tasked with reducing disposal of municipal solid waste and promoting recycling in California through IWMA. Under IWMA, the state has established a statewide 75 percent source reduction, recycling, and composting goal and over the years the Legislature has enacted various laws relating to increasing the amount of waste that is diverted from landfills.

   CalRecycle's annual *State of Disposal and Recycling Report in California* provides information on how much material the state generates and how much of that material is landfilled, exported as recyclables, composted, anaerobically digested, mulched, recycled, or used for other purposes. Table 1 shows these numbers for 2019 and 2020.

	2019	**2020**	**Net result**
Total amount generated	77.5	77.4	decrease
Amount landfilled	42.6	40	decrease
Exported as recyclables	14.7	13.2	decrease
Composted, anaerobically digested, or mulched	9.3	9.8	increase
Recycled or source reduced	4.65	9.8	increase

Numbers shown are in million tons.

2) *Plastic bags in the waste stream*. According to United Nations Environmental Programme (UNEP), up to five trillion plastic bags are used worldwide every year. While cigarette butts are the most common type of plastic waste, food wrappers, plastic bottles, plastic bottle caps, plastic grocery bags, plastic straws, and stirrers are the next most common items. According to its report *Advancing Sustainable Materials Management: Facts and Figures* 2018, the U.S. EPA found that the United States generated 4.2 million tons of plastic bags, sacks, and wraps in 2018. Of that amount, 3.04 million tons were landfilled, and 10% was recycled.

3) *Plastic Bag Ban.* In 2016, California voters approved Proposition 67, the statewide Single-Use Carryout Bag Ban (SB 270, Padilla, de Leon, Lara, Chapter 850, Statutes of 2014). As a result, most grocery stores, retail stores with a pharmacy, convenience stores, food marts, and liquor stores are no longer able to provide single-use plastic carry-out bags to their customers. Instead, these stores may provide a reusable grocery bag or recycled paper bag to a customer at the point of sale for a charge of at least 10 cents. Since the bag ban went into effect, the number of plastic bags collected from state beaches during the annual Coastal Cleanup Days has dropped significantly from about 65,000 bags in 2010 to about 26,000 bags in 2017. In 2020, the number of plastic bags collected increased. Some think this is related to the temporary allowance of plastic bags in stores due to early concerns that people bringing their own grocery bags into stores might increase the spread of COVID-19.

4) *Compostable products*. Compostable products break down into their organic constituents under strict control of environmental factors including temperature, aeration, and nutrient concentration. Unlike biodegradable products, which simply means decomposable by action of living organisms, compostable means it must additionally break down into soil conditioning material (i.e. compost). There are different types and levels of sophistication of composting, ranging from at-home backyard static piles to industrial composting plants. Often,

manufactured "compostable" products made from biobased materials do not break down as easily as food waste and require more industrial composting that can grind them down or use more extreme conditions to degrade material at a faster rate.

Many businesses, governments and individuals are designing or purchasing packaging, food service ware, and other products to be compostable as a means to reduce environmental impacts and conserve resources. However, not all "compostable" products provide the intended environmental benefits. The Oregon Department of Environmental Quality reviewed literature from 18 years of environmental life cycle assessments of compostable packaging and food service ware and found that, in the majority of comparisons, compostable materials had higher environmental impacts than both non-compostable materials, and than using compostable materials and treating them via recycling, landfilling, or incineration. One primary reason for this is the potential for higher burdens associated with producing the feedstocks used to make different types of compostable packaging. Another is that composting, unlike other end-of-life waste management alternatives such as recycling, is a relatively poor method of recovering nutrients or value embedded in human-made materials such as packaging.

Comments

1) *Purpose of Bill.* According to the author, "California has made great strides in reducing the GHG emissions produced by our waste streams. SB 1383's composting goals sought to directly target emissions caused by a failure to divert organic waste from landfills. The ultimate objective of these organic waste diversion goals is to put that material to a better and higher use, while also removing the emissions created by the organic waste rotting away in landfills.

   "A key strategy for reducing contamination from our compost waste streams, already under way thanks to 2014's SB 270, is prohibiting stores from providing single-use plastic carryout bags at their point of sale. Three years after this bill passed, data showed that grocery bag litter had dropped by 72% and accounted for less than 1.5% of all litter. SB 1046 takes the next logical step by requiring the pre-checkout produce bags be reusable, recyclable, or compostable.

   "These small pre-checkout bags many of us use while grocery shopping are not necessarily the bags that come to mind when you hear about plastics in our oceans and compost streams. But in the State of California, these innocuous

produce bags tend to be thrown into the same bins as the fruit, vegetables, and meat we bring home in them from the store. This type of contamination not only leads to increased levels of microplastics in our compost waste stream, but it also leads to higher rates for consumers because the handling costs increase when compost waste streams are contaminated.

"Now that the time has come for SB 1383's regulations to be implemented, it is vital that we provide local communities with the cleanest waste streams possible to ensure that we are diverting organic waste away from landfills in a manner that does not put the burden solely on the wallets of consumers. SB 1046 will decrease contamination in compost waste streams and provide consumers with convenient access to compostable pre-checkout bags by prohibiting the distribution of plastic pre-checkout produce bags unless they are reusable, recyclable, or compostable."

2) *Reducing our usage of plastic*. According to a 2017 report by Closed Loop, only 7% of plastic bags accrued by US households is recycled through collection programs at grocery and big-box stores, and only three percent of non-retail bag film is collected for recycling. The rest winds up in landfills, or is littered and contributes to plastic pollution in the environment.

   In addition to cleaning up the compost waste stream, this bill further reduces the overall amount of plastic bags by prohibiting stores from providing a "precheckout bag" unless it is a recycled paper bag or a bag that meets specified compostability standards. Under this bill, if a plastic precheckout bag is going to be used, it has to be compostable.

FISCAL EFFECT: Appropriation: No Fiscal Com.: No Local: No

SUPPORT: (Verified 3/29/22)

Californians Against Waste (source)
350 Silicon Valley
350 Ventura County Climate Hub
American Forest & Paper Association
Bringit for a Better Planet
California Environmental Voters
CALPIRG
Long Beach Alliance for Clean Energy
National Resources Defense Council
RethinkWaste
Save the Albatross Coalition

Sierra Club California
The 5 Gyres Institute

OPPOSITION: (Verified 3/29/22)

None received

Prepared by: Genevieve M. Wong / E.Q. / (916) 651-4108
3/30/22 15:10:51

****** END ******

Office of Senate Floor Analyses
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THIRD READING

Bill No: SB 1106
Author: Wiener (D)
Amended: 3/10/22
Vote: 21

SENATE PUBLIC SAFETY COMMITTEE: 4-1, 3/22/22
AYES: Bradford, Kamlager, Skinner, Wiener
NOES: Ochoa Bogh

SUBJECT: Criminal resentencing: restitution

SOURCE: Debt Free Justice Coalition

DIGEST: This bill provides that an unfulfilled order of restitution or a restitution fine shall not be grounds for: (1) denial of a petition for specified expungement relief; (2) denial of release on parole to another state; or (3) denial of a petition for reduction of a conviction.

ANALYSIS:

Existing law:

1) States that, in addition to any other penalty provided or imposed under the law, the court shall order the defendant to pay both a restitution fine and restitution to the victim or victims, if any. (Pen. Code § 1202.4, subd. (a)(3).)

2) Specifies that a restitution order is enforceable by the victim as a civil judgment, and enforceable in the same manner as is provided for the enforcement of any other money judgment. Upon the victim's request, the court shall provide the victim in whose favor the order of restitution is entered with a certified copy of that order and a copy of the defendant's financial disclosure. (Pen. Code, §§ 1202.4, subd. (i), & 1214, subd. (b).)

3) States that any portion of a restitution fine or restitution fee that remains unsatisfied after a defendant is no longer on probation, parole, postrelease community supervision or mandatory supervision, after a term in custody, or

after completing diversion is enforceable by the California Victim Compensation Board. (Pen. Code, § 1214, subd. (a).)

4) Authorizes a court, in its discretion, to designate an offense that is punishable as an alternate felony-misdemeanor as a misdemeanor, as specified. (Pen. Code, § 17, subd. (b).)

5) Authorizes a court, with the consent of the defendant, to determine specified offenses as an infraction instead of a misdemeanor, as specified. (Pen. Code, § 17, subd. (d).)

6) Requires a court to grant expungement relief, with specified exceptions, for a misdemeanor or felony conviction for which the sentence included a period of probation and the petitioner successfully completed probation or terminated early, is not serving a sentence for, on probation for, or charged with the commission of any offense. The court has discretion to do so in the interests of justice in other probation cases. (Pen. Code, § 1203.4, subds. (a) & (b).)

7) Requires the court to grant expungement relief, with specified exceptions, to defendants convicted of a misdemeanor and not granted probation or an infraction after one year from the date of the pronouncement of judgement, if the defendant has fully complied with and performed the sentence, is not serving a sentence, is not charged with a crime, has lived an honest and upright life, and has conformed to and obeyed the law. If the defendant does not satisfy these requirements, the court may in its discretion and in the interests of justice after one year from the date of pronouncement of judgment grant relief in non-probation cases in which the defendant has fully complied with and performed the sentence, is not serving a sentence, and is not charged with a crime. (Pen. Code, § 1203.4a subds. (a) & (b).)

8) Allows the court to grant expungement relief for a felony conviction of a petitioner sentenced to county jail and mandatory supervision pursuant to criminal justice realignment legislation of 2011 if specified conditions are satisfied. (Pen. Code, § 1203.41.)

9) Allows the court to grant expungement relief for a conviction of a petitioner sentenced to prison for a felony that, if committed after enactment of criminal justice realignment legislation in 2011, would have been eligible for county-jail sentencing to obtain an expungement. (Pen. Code, § 1203.42.)

10) States that if a defendant successfully participated in the California Conservation Camp program as an inmate hand crew member, as specified, or

successfully participated as a member of a county inmate hand crew, as specified, and has been released from custody, the defendant is eligible for expungement relief. (Pen. Code, § 1203.4b.)

11) Specifies that expungement relief releases the person from the penalties and disabilities resulting from the conviction, except the person:

    a) May have a prior conviction pleaded and proved if the person is subsequently prosecuted for another crime;

    b) Is not relieved of any prohibition on possessing, owning, or having under his or her custody or control any firearm and may be convicted as an ex-offender in possession of a firearm;

    c) Must disclose the conviction in response to any direct question in a questionnaire or application for public office, for licensure by any state or local agency, or for contracting with the California State Lottery; moreover, any ban on holding public office that resulted from the conviction remains in effect; and

    d) May have their driver's license revoked, suspended, or use limited after two or more Vehicle Code convictions. (Pen. Code, §§ 1203.4, subd. (a)(1)-(3); 1203.4a, subds. (a) & (c); 1203.41, subds. (a) & (b); 1203.42, subds. (a) & (b).)

12) Authorizes a person who was under 18 years of age at the time of commission of a misdemeanor and who is eligible for expungement relief, or previously received expungement relief, to petition the court for an order sealing the record of conviction and arrest, and other official records in the case. (Pen. Code, § 1203.45, subd. (a).)

13) Authorizes states to enter into compacts with other states "for cooperative effort and mutual assistance in the prevention of crime and for other purposes." (Pen. Code, § 11177.)

14) Provides that these states agree to allow a sending state who is a party to the compact to permit any person convicted of an offense within such state and placed on probation or released on parole to reside in any other receiving state that is party to this compact if:

    a) Such person is in fact a resident of or has his family residing within the receiving state and can obtain employment there, or,

b) Though not a resident of the receiving state and not having his family residing there, the receiving state consents to such person being sent there. (Pen. Code, § 11177.)

15) Authorizes the receiving state to assume duties of visitation and supervision over the probationer or parolee and provides that the sending state may at all times enter a receiving state and there apprehend and retake any person on probation or parole. (Pen. Code, § 11177.)

16) Prohibits the release of a parolee or inmate on parole to reside in any other residing state if the parolee or inmate is subject to an unsatisfied order of restitution to a victim or a restitution fine within the sending state. (Pen. Code, § 11177.2, subd. (b).)

17) States that the parolee or inmate may be granted an exception to the above prohibition if the parolee or inmate posts a bond for the amount of the restitution order. (Pen. Code, § 11177.2, subd. (b).)

This bill:

1) Specifies that when a court exercises its discretion to reduce an offense from a felony to a misdemeanor, or a misdemeanor to an infraction, an unfulfilled order of restitution or a restitution fine shall not be grounds for denial of a request or application for reduction.

2) Specifies that a petition for expungement relief pursuant to the provisions described above shall not be denied due to an unfulfilled order of restitution or restitution fine.

3) Provides that when the court considers a petition for expungement relief pursuant to the above provisions, in its discretion and in the interest of justice, an unpaid order of restitution or restitution fine shall not be grounds for denial of the petition for relief.

4) States that an unfulfilled order of restitution or a restitution fine shall not be grounds for:

   a) Finding that a defendant did not fulfil the condition of probation for the entire period of probation;

   b) Finding that a defendant did not fully comply with and perform the sentence of the court or a finding that a defendant has not lived an honest and upright life and has conformed to and obeyed the laws of the land; or,

c) Finding that a defendant did not successfully participate in the California Conservation Camp program as an incarcerated individual hand crew member, or that the defendant did not successfully participate as a member of a county incarcerated individual hand crew.

5) States that a petition for sealing of records pursuant to the above provision shall not be denied due to an unfulfilled order of restitution or restitution fine and un unfulfilled order of restitution or a restitution fine shall not be grounds for finding that a defendant did not fulfil the conditions of probation for the entire period of probation.

6) Provides that when the court considers a petition for sealing of records under this section, in its discretion and in the interest of justice, an unpaid order of restitution or restitution fine shall not be grounds for denial of the petition for relief.

7) Repeals Penal Code Section 11177.2.

8) Contains legislative findings and declarations.

Comments

According to the author of this bill:

> Senate Bill 1106 precludes courts from denying a request for expungement of a conviction based on outstanding debt related to restitution. To be clear, SB 1106 does not waive or reduce the restitution or restitution fines owed, but rather removes it as a barrier to expungement.
>
> Current law authorizes courts to require people convicted of crimes to pay restitution fines, as well as restitution payments to compensate survivors for harm caused. Courts can order people to pay direct restitution based on the amount of loss or injury but, in setting the amount, are not required to take into account a person's ability to pay that restitution. Victims of crime who are awarded restitution overwhelmingly receive either nothing or a small percentage of the restitution, due to the defendant lacking the resources to actually pay restitution.
>
> In practice, current law means that people leaving the criminal justice system are more likely to get trapped by fines and fees that they cannot get a job to actually pay off. This helps neither the person ordered to pay restitution nor the person who would receive compensation from the payment.

Because successful re-entry into society for formerly incarcerated people benefits the broader community, SB 1106 ensures that expungement petitions aren't denied simply due to outstanding restitution debt.

FISCAL EFFECT: Appropriation: No Fiscal Com.: No Local: No

SUPPORT: (Verified 3/22/22)

Debt Free Justice Coalition (source)
ACLU California Action
Alameda County Public Defender's Office
California Attorneys for Criminal Justice
California Catholic Conference
California Public Defenders Association
Californians for Safety and Justice
Californians for Safety and Justice - TimeDone
Californians United for a Responsible Budget
Center for Responsible Lending
Communities United for Restorative Youth Justice
Community Legal Services in East Palo Alto
Criminal Justice Clinic, UC Irvine School of Law
Debt Collective
Dignity and Power Now
East Bay Community Law Center
Ella Baker Center for Human Rights
Essie Justice Group
Freedom 4 Youth
Fresno Barrios Unidos
Friends Committee on Legislation of California
Homeboy Industries
Indivisible CA: State Strong
Initiate Justice
Insight Center for Community Economic Development
Justice2Jobs Coalition
Lawyers' Committee for Civil Rights - San Francisco
Legal Aid at Work
Legal Services for Prisoner with Children
Mental Health Advocacy Services
National Consumer Law Center, INC.
PolicyLink
Public Counsel

Root & Rebound
Rubicon Programs
San Francisco Financial Justice Project
San Francisco Public Defender
Smart Justice California
Uncommon Law
Underground Grit
United Core Alliance
Western Center on Law & Poverty
Yerba Buena Center for the Arts
Young Women's Freedom Center

OPPOSITION: (Verified 3/22/22)

California District Attorneys Association

ARGUMENTS IN SUPPORT: According to the California Public Defenders Association:

> While it is in everyone's interest that a formerly convicted person find gainful employment and stable housing, existing law does not require expungement for a person who has otherwise performed flawlessly on probation or in fire camp who was unable to pay victim restitution because of their indigency. Similarly, while existing law allows an individual who has served his or her time in prison to transfer their parole supervision to another state, it does not allow such a transfer if the parolee still owes victim restitution.
>
> Such restrictions needlessly discriminate against poor Californians (wealthy Californians simply pay and move on) and is deeply impractical. It is in everyone's interests, including a victim who is owed restitution, to remove barriers to employment for a former defendant, so that the defendant can earn the money to pay restitution. Because restitution orders survive past expungement, allowing defendants to expunge their cases and then seek employment increases the chances that a victim will receive compensation for their loss, while also offering defendants the opportunity to safely reintegrate into society.

ARGUMENTS IN OPPOSITION: According to the California District Attorneys Association:

> The many expungement and related post-conviction rehabilitation statutes provide criminal defendants finished with their sentences a "clean slate" to

apply for jobs, get benefits, and generally reintegrate into society as productive citizens. That is a useful benefit for both them and society. But taking away the requirement that these defendants complete their restitution order (to victims) and fine (to the court) before obtaining relief favors these defendants at the expense of their victims, and places a hard stop in the face of true restorative justice. The Courts hearing these motions already have the discretion to grant or deny them even if restitution is unpaid; taking that discretion totally away not only makes a social choice in favor of defendants over victims, but also in favor of defendants over the judgment of the courts of the state. Removing discretion to consider restitution fines affects not only the courts, but affects victims indirectly, because those fines help the State Victim Compensation Board pay its direct restitution to victims of violent crime. Given the breadth of post-conviction rehabilitation statutes now on the books, and the considerable discretion courts have to grant relief, making a choice to favor defendants over victims by removing the restitution bar is a policy that goes too far and which our Association should oppose.

Prepared by: Stella Choe / PUB. S. /
3/25/22 9:37:41

****** END ******

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CONSENT

Bill No: SB 1192
Author: Ochoa Bogh (R)
Introduced: 2/17/22
Vote: 21

SENATE GOVERNMENTAL ORG. COMMITTEE: 14-0, 3/29/22
AYES: Dodd, Nielsen, Allen, Archuleta, Becker, Borgeas, Bradford, Glazer, Hueso, Jones, Kamlager, Melendez, Rubio, Wilk
NO VOTE RECORDED: Portantino

SUBJECT: Public contracts: withheld payments

SOURCE: American Council of Engineering Companies

DIGEST: This bill clarifies that the term "contractor" includes design professionals for the purposes of authorizing the substitution of alternative securities in lieu of retention payments withheld when contracting with a state agency on a public works project, as specified.

ANALYSIS:

Existing law:

1) Provides, pursuant to the State Contract Act, for a contracting process by state agencies for public works of improvement pursuant to a competitive bidding process, under which bids are awarded to the lowest responsible bidder, with specified alternative procurement procedures authorized in certain cases.

2) Requires an invitation for bid and any contract documents to include provisions permitting the substitution of securities for any moneys withheld by a public agency in order to ensure performance under a contract, and, at the request and expense of the contractor, requires securities equivalent to the amount withheld to be deposited with the State Treasurer or a state or federally chartered bank in the state as the escrow agent, and alternatively permits the payment of retentions earned to the escrow agent, as specified.

3) Defines "public works contract" to mean an agreement for the erection, construction, alteration, repair, or improvement of any public structure, building, road, or other public improvement of any kind.

4) Defines "contractor" to mean a "firm," "architectural, landscape architectural, engineering, environmental, and land surveying services," "construction project management," and "environmental services," as specified.

This bill provides that "contractor," for the purposes of permitting the substitution of securities for any moneys withheld by a public agency in order to ensure performance, includes, but is not limited to, a contractor performing a public works contract, as defined, as well as any person or entity who would qualify as a contractor, as defined.

Background

Purpose of the bill. According to the author's office, "SB 1192 provides necessary clarification for the term 'contractor' as used Public Contract Code §10263. By making clear that design professionals are included amongst those who may employ alternatives to retention, this bill will streamline contract negotiations on public works projects by providing greater clarity to all parties. These alternatives to retention are effective forms of collateral and are already commonplace in the construction industry. SB 1192 simply ensures that design professionals may continue utilizing alternatives to retention when contracting with the state."

Contracting for Public Works Contracts. In the construction industry, when a contractor performs services on a public works project, it is common practice for the owner agency to withhold a percentage of each regular payment amount during the term of the contract until the completion of the contract. This is called retention and is intended to provide assurance to the owner that the contract terms will be fulfilled by the contractor. For many years, design professionals and licensed contractors have been able to substitute alternative securities, such as a retention bond or certificate of deposit, when contracting with state agencies.

However, some agencies are now interpreting existing law to apply only to licensed contractors, rather than the more general meaning of independent contractors. This interpretation bars design professionals from utilizing these helpful alternatives to retention policy. Retention can be a difficult financial burden to absorb, especially for smaller businesses, as the period between the start and end of a contract can frequently be months or years. These withheld funds can

equal hundreds of thousands, or even millions, of dollars depending on the size of the contract.

Oftentimes, alternatives to retention come in the forms of retention bonds, which are purchased by the contractor and provided to the owner as collateral until the job is completed by the contractor. This option allows for the contractor to maintain the cash flow necessary to run their business during the months or years it takes to complete the contracted project, while not diminishing the owner's mechanism to enforce the contract.

This bill clarifies, that for the purpose of defining a contractor wishing to substitute alternative securities, the definition of "contractor" includes, but is not limited to, any contractor performing a public works contract as well as design professionals.

Supporters argue that design professionals have been relying on the access to alternative securities to operate their businesses for many years. Without the availability of these options, some design professionals would be unable to absorb the excess costs assumed under traditional retention and would have to turn down the project in favor of working for an owner who interprets the lack of clarity in the law more permissively.

Related/Prior Legislation

SB 1489 (Senate Governance and Finance Committee, 2022) clarifies the term "contractor" to include any contractor performing a public works contract or design professionals, for the purposes of the substitution of securities for any moneys withheld by a local public agency, as specified. (Pending in the Senate Governance and Finance Committee)

FISCAL EFFECT: Appropriation: No Fiscal Com.: No Local: No

SUPPORT: (Verified 3/29/22)

American Council of Engineering Companies (source)

OPPOSITION: (Verified 3/29/22)

None received

ARGUMENTS IN SUPPORT: In support of this bill, the American Council of Engineering Companies writes that, "[E]xisting law does not clearly define which professionals are included in the term 'contractor' as used in PCC 10263. In fact,

the term is used in many differing ways throughout the PCC. Without a clear definition in this case, some independent contractors have been excluded from the list of those who may benefit from the ability to substitute alternative securities in lieu of retention withholdings, as described in PCC 10263. SB 1192 makes clear that the definition of 'contractor' in PCC 10263 includes not only construction contractors but also design professionals (engineers, architects, etc.). This simple clarification will benefit both owners and contractors by ensuring that the inability to utilize alternative securities no longer unduly burdens design professionals and no longer is a barrier to owners being able to contract with the best, most qualified design professionals for their projects."

Prepared by: Brian Duke / G.O. / (916) 651-1530
3/30/22 15:10:52

****** END ******

Office of Senate Floor Analyses
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CONSENT

Bill No: SB 1394
Author: Eggman (D)
Introduced: 2/18/22
Vote: 21

SENATE JUDICIARY COMMITTEE: 11-0, 3/29/22
AYES: Umberg, Borgeas, Durazo, Gonzalez, Hertzberg, Jones, Laird, McGuire, Stern, Wieckowski, Wiener

SUBJECT: Conservatorships: gravely disabled persons

SOURCE: Author

DIGEST: This bill changes the maximum amount of time by which a temporary 30-day conservatorship pending the resolution of a petition for a conservatorship under the Lanterman-Petris-Short (LPS) Act may be extended, when the potential conservatee requests a court or jury trial on the issue of whether they are gravely disabled, from six months to 180 days.

ANALYSIS:

Existing law:

1) Establishes the LPS Act, which provides for the involuntary detention for treatment and evaluation of people who are gravely disabled or a danger to self or others. (Welf. & Inst. Code § 5000 et seq.)

   a) "Grave disability" is defined as a condition in which a person, as a result of a mental disorder, or impairment by chronic alcoholism, is unable to provide for the person's basic personal needs for food, clothing, or shelter. (Welf. & Inst. Code § 5008(h)(1)(A), (2).)

2) Establishes a series of escalating detentions for involuntary treatment of a person who meets the criteria above that may culminate in a renewable one-year conservatorship for a person determined to be gravely disabled. Specifically:

a) If a person is gravely disabled as a result of mental illness, or a danger to self or others, then a peace officer, staff of a designated treatment facility or crisis team, or other professional person designated by the county, may, upon probable cause, take that person into custody for a period of up to 72 hours for assessment, evaluation, crisis intervention, or placement in a designated treatment facility (known as a "5150 hold"). (Welf. & Inst. Code § 5150.)

b) A person who has been detained for 72 hours may be further detained for up to 14 days of intensive treatment if the person continues to pose a danger to self or others, or to be gravely disabled, and the person has been unwilling or unable to accept voluntary treatment. (Welf. & Inst. Code § 5250.)

c) After the 14 days, a person may be detained for an additional 14 or 30 days of intensive treatment if the person remains gravely disabled and is unwilling or unable to voluntarily accept treatment. (Welf. & Inst. Code §§ 5260, 5270.15.)

d) If, while a petition for a full LPS conservatorship is pending, the investigating officer recommends a temporary conservatorship until the petition is ruled on, the court may establish a temporary conservatorship of no more than 30 days, until the point when the court makes a ruling on whether the person is "gravely disabled." (Welf. & Inst. Code § 5352.1.)

3) Provides that a person for whom an LPS conservatorship is sought has the right to demand a court or jury trial on the issue of whether they are gravely disabled. (Welf. & Inst. Code § 5350(d).)

4) Provides that, if a person for whom a full LPS conservatorship is sought is the subject of a temporary conservatorship at the recommendation of the investigating officer, and that person requests a court or jury trial on the issue of whether they are gravely disabled, the court may extend the 30-day temporary conservatorship until the date of the disposition of the issue by the court or jury, provided that the extension is for no more than six months. (Welf. & Inst. Code § 5352.1.)

This bill:

1) Amends the maximum amount of time by which a court may extend a 30-day LPS Act temporary conservatorship when the person has requested a jury trial on the question of whether they are "gravely disabled" for purposes of establishing a full LPS conservatorship, from six months to 180 days.

2) Makes certain nonsubstantive technical and conforming changes.

Comments

This bill makes a minor modification to the LPS statutory framework. Due process requires that a person who is the subject of an LPS conservatorship have the right to a court or jury trial on the question of whether they are gravely disabled.[1] The demand must be made within five days of the hearing on the petition for conservatorship.[2] The court or jury trial then must begin within 10 days of the date of the demand, unless counsel for the individual requests a continuance, which the court may grant for up to 15 days.[3]

In some cases, the person who is the subject of a conservatorship petition may already have been placed in a temporary conservatorship at the recommendation of the officer investigating the conservatorship petition.[4] This temporary conservatorship generally expires automatically at the earlier of 30 days or the date when the court holds a hearing on the question of whether the person is gravely disabled. If, however, the person has requested a court or jury trial on the question of whether they are gravely disabled, the temporary conservatorship may be extended until the date of the disposition of the issue by the court or jury, for a maximum of six months.[5] According to the author and stakeholders, 30-day temporary conservatorships are, in practice, rarely extended for six months, and extensions of that length were mostly due to complications arising from the COVID-19 pandemic.

This bill changes the six-month maximum period to a 180-day maximum period. According to the author, there has been confusion in the courts over the meaning of "six months," specifically, whether the term should be interpreted to mean six calendar months or 180 calendar days. Changing the term from six months to 180 calendar days will avoid this confusion, and also bring the statute's terminology in line with other LPS provisions that use a 180-day time period.[6]

FISCAL EFFECT: Appropriation: No Fiscal Com.: No Local: No

SUPPORT: (Verified 3/30/22)

Professional Fiduciary Association of California

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[1] Welf. & Inst. Code, § 5350(d)(1).
[2] *Ibid.*
[3] *Id.*, § 5350(d)(2).
[4] *Id.*, § 5352.1(a).
[5] *Id.*, § 5352.1(c).
[6] *See id.*, §§ 5300, 5304; *see also id.*, § 5346 (AOT term may not exceed 180 days).

OPPOSITION: (Verified 3/30/22)

None received

ARGUMENTS IN SUPPORT: According to the Professional Fiduciary Association of California (PFAC):

> PFAC supports the provisions of this measure that would change the maximum amount of time by which a temporary 30-day conservatorship pending the resolution of a petition for an LPS conservatorship may be extended from six months to 180 days. This would help avoid potential confusion in the courts over the meaning of "six months," and whether the term should be interpreted to mean six calendar months or 180 calendar days. This will also bring the statute's terminology in line with other LPS provisions that use a 180-day time period for the rare cases where this is appropriate.

Prepared by: Allison Meredith / JUD. / (916) 651-4113
3/31/22 15:10:51

****** END ******

SENATE RULES COMMITTEE SCR 64
Office of Senate Floor Analyses
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THIRD READING

Bill No: SCR 64
Author: Rubio (D), et al.
Introduced: 1/19/22
Vote: 21

SUBJECT: Vicente Fernández Day

SOURCE: Author

DIGEST: This resolution declares that the Legislature honors the life and legacy of Vicente Fernández, and proclaims February 17, 2022, as Vicente Fernández Day, a day of remembrance and education to ensure that all Californians honor and remember the cultural voice of generations.

ANALYSIS: This resolution makes the following legislative findings:

1) Vicente Fernández was an unparalleled Mexican artist and cultural icon, known and beloved by generations of people around the world as "El Rey de la Música Ranchera," with a legendary impact in Mexican movies, proudly representing a rich Mexican heritage.

2) Vicente Fernández was born on February 17, 1940, in Guadalajara, Jalisco, Mexico, and from a young age expressed a passion for traditional music and was influenced by Jorge Negrete and Pedro Infante.

3) Vicente Fernández's passion led to performing for tips in Mariachi Plaza in Guadalajara, Mexico, before winning the La Calandria Musical competition and moving to Mexico City to begin a career in music that would ultimately lead to him becoming a world-renowned icon in regional Mexican music.

4) Vicente Fernández's extensive career over several decades included more than 50 albums that earned over 50 million album sales, three Grammy Awards, nine Latin Grammy Awards, appearances in more than two dozen movies, a star on the Hollywood Walk of Fame, and numerous sold-out concert tours around the world, to the delight of many fans.

5) Vicente Fernández died on December 12, 2021, at 81 years of age, and is survived by a loving spouse of 57 years, four children, many grandchildren and great-grandchildren, and his ranch Los Tres Potrillos, which carries his legacy and passion for living as a ranchero.

6) The passing of Vicente Fernández in California represents a loss that impacts not only Latinos in California, but also the embedded heritage and culture of California. California and the world lost an icon who represented a voice that we listened to and who we saw in murals in the streets of California, restaurants, supermarkets, and the homes of our abuelos and during friend or family gatherings. Vicente Fernández's voice and music will forever be a representation of native Californian heritage because his art impacted Californians in direct and indirect ways. Specifically, the 15.6 million Latinos who call California home, according to the 2020 United States Census, and many communities across the state have held memorial services paying tribute to the impact that Vicente Fernández had in our California communities.

This resolution honors the life and legacy of Vicente Fernández and proclaims February 17, 2022, as Vicente Fernández Day, a day of remembrance and education to ensure that all Californians honor and remember the cultural voice of generations.

Related/Prior Legislation

SCR 63 (Mendoza, 2017) would have designated the portion of State Highway 605 from Peck Road to Rose Hills Road in the County of Los Angeles as the Vicente Fernández Highway. The resolution died in the Senate Transportation and Housing Committee.

FISCAL EFFECT: Appropriation: No Fiscal Com.: No Local: No

SUPPORT: (Verified 2/2/22)

None received

OPPOSITION: (Verified 2/2/22)

None received

Prepared by: Karen Chow / SFA / (916) 651-1520
2/2/22 16:23:31

****** END ******

SENATE RULES COMMITTEE SCR 69
Office of Senate Floor Analyses
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THIRD READING

Bill No: SCR 69
Author: Grove (R)
Introduced: 2/15/22
Vote: 21

SUBJECT: California Peace Officers' Memorial Day

SOURCE: Author

DIGEST: This resolution designates Sunday, May 15, 2022, as California Peace Officers' Memorial Day and urges all Californians to remember those individuals who have given their lives for our safety and express appreciation to those who continue to dedicate themselves to making California a safer place to live and raise our families.

ANALYSIS: This resolution makes the following legislative findings:

1) Sunday, May 15, 2022, is California Peace Officers' Memorial Day, a day Californians observe in commemoration of those noble officers who have tragically sacrificed their lives in the line of duty.

2) Although California citizens are indebted to our California peace officers each day of the week, we make particular note of our peace officers' bravery and dedication, and we share in their losses on California Peace Officers' Memorial Day.

3) California peace officers have worked dutifully and selflessly on behalf of the people of this great state, regardless of the peril or hazard to themselves.

4) By the enforcement of our laws, these same peace officers have safeguarded the lives and property of the citizens of California and have given their full measure to ensure these citizens the right to be free from crime and violence.

5) Special ceremonies and observations on behalf of California peace officers provide all Californians with the opportunity to appreciate the heroic individuals who have dedicated their lives to preserving public safety.

This resolution:

1) Recognizes California's peace officers who were killed in defense of their communities in 2021:

   a) Deputy Adam Gibson, Sacramento County Sheriff's Office, End of Watch: January 18, 2021.

   b) Sergeant Richard P. Brown, Fresno Police Department, End of Watch: February 17, 2021.

   c) Deputy Thomas J. Albanese, Los Angeles County Sheriff's Department, End of Watch: February 25, 2021.

   d) Officer Jose Anzora, Los Angeles Police Department, End of Watch: March 03, 2021.

   e) Detective Luca Benedetti, San Luis Obispo Police Department, End of Watch: May 10, 2021.

   f) Officer Jimmy Inn, Stockton Police Department, End of Watch: May 11, 2021.

   g) Sergeant Dominic Vaca, San Bernardino County Sheriff's Department, End of Watch: May 31, 2021.

   h) Deputy Phillip Campas, Kern County Sheriff's Office, End of Watch: July 25, 2021.

   i) Officer Harminder Grewal, Galt Police Department, End of Watch: August 26, 2021.

2) Designates Sunday, May 15, 2022, as California Peace Officers' Memorial Day and urges all Californians to remember those individuals who have given their lives for our safety and express appreciation to those who continue to dedicate themselves to making California a safer place to live and raise our families.

FISCAL EFFECT: Appropriation: No Fiscal Com.: No Local: No

SUPPORT: (Verified 2/22/22)

None received

OPPOSITION: (Verified 2/22/22)

None received

Prepared by: Jonas Austin / SFA / (916) 651-1520
2/23/22 13:05:45

****** END ******

SENATE RULES COMMITTEE SCR 77
Office of Senate Floor Analyses
(916) 651-1520 Fax: (916) 327-4478

THIRD READING

Bill No: SCR 77
Author: Umberg (D)
Introduced: 3/1/22
Vote: 21

SUBJECT: King Hùng Vương Commemorative Day

SOURCE: Author

DIGEST: This resolution proclaims April 10, 2022, as King Hùng Vương Commemorative Day and recognizes it as a day of cultural festivals commemorating the roots of Vietnamese Americans in California.

ANALYSIS: This resolution makes the following legislative findings:

1) The festival King Hùng Vương Commemorative Day is a Vietnamese traditional holiday commemorating the merits of founding the nation of Vietnam by the Hung Vuong kings.

2) The commemoration is held annually on the 10th day of March of the lunar calendar at King Hung Temple, Viet Tri City, Phu Tho Province, Northern Vietnam, as well as everywhere in Vietnam. Since 1975, Vietnamese communities around the world celebrate this holiday every year.

3) King Hùng Vương Commemorative Day not only highlights national pride but also reminds us to thoroughly understand and promote national identity and ancestral origins, ensuring that future generations appreciate the merits of generations of national heroes and their ancestors.

4) After the Vietnam War ended in 1975, millions of Vietnamese people escaped from Vietnam and settled in free, democratic countries, including more than 580,000 Vietnamese living in California.

5) Over the past 40 years, Vietnamese communities have rapidly formed and developed, contributing to the diversity of culture, economy, education, politics, military, and more. King Hùng Vương Commemorative Day is one of the most

monumental annual festivals, bringing forth the many historical and cultural characteristics of the Vietnamese community.

This resolution recognizes April 10, 2022, which is the 10th of March in the lunar calendar, as King Hùng Vương Commemorative Day and recognizes it as a day of cultural festivals commemorating the roots of Vietnamese Americans in California.

Related/Prior Legislation

SCR 4 (Umberg, Resolution Chapter 43, Statutes of 2021) proclaimed April 21, 2021, as King Hùng Vương Commemorative Day.

FISCAL EFFECT: Appropriation: No Fiscal Com.: No Local: No

SUPPORT: (Verified 3/9/22)

None received

OPPOSITION: (Verified 3/9/22)

None received

Prepared by: Karen Chow / SFA / (916) 651-1520
3/9/22 15:10:35

****** END ******

SENATE RULES COMMITTEE SCR 84
Office of Senate Floor Analyses
(916) 651-1520 Fax: (916) 327-4478

THIRD READING

Bill No: SCR 84
Author: Umberg (D)
Introduced: 3/3/22
Vote: 21

SUBJECT: Veterans of the Republic of Vietnam Armed Forces Day

SOURCE: Author

DIGEST: This resolution proclaims June 19, 2022, as Veterans of the Republic of Vietnam Armed Forces Day.

ANALYSIS: This resolution makes the following legislative findings:

1) The Republic of Vietnam Military Forces, or South Vietnamese Armed Forces, were formally established on December 30, 1955. The Republic of Vietnam Military Forces consisted of four branches: the Army of the Republic of Vietnam, the Republic of Vietnam Air Force, the Republic of Vietnam Navy, and the Republic of Vietnam Marine Division.

2) The duties of all four branches included: protecting the sovereignty of the free Vietnamese nation and that of the Republic, maintaining the political and social order and the rule of law by providing internal security, defending the newly independent Republic of Vietnam from external and internal threats, and ultimately helping to reunify Vietnam, a country that had been divided since the Geneva Accords of 1954.

3) The Vietnam War brought about the loss of more than 250,000 members of the South Vietnamese Armed Forces and more than 58,000 members of the United States Armed Forces.

4) After the Fall of Saigon on April 30, 1975, more than 250,000 members of the South Vietnamese Armed Forces were sent to prison camps, where many spent 18 years or more in captivity and more than 20,000 died before they were released.

5) The end of the Vietnam War left the South Vietnamese Armed Forces in disarray. Many military personnel and their family members fled Vietnam to escape tyrannical authoritarian rule and oppression, and hoped to find democracy and freedom in the United States and other free nations. They spent months at sea and in jungles, battling hunger, thirst, and separation from their families and loved ones. These veterans were fighting side by side with American soldiers against a common enemy and risked their lives to save many American lives. All veterans who risked their lives fighting for freedom should be honored for their distinguished service in the Vietnam War and for the contributions they provide to the United States as American citizens, and it is the intent of the State of California to honor the sacrifices, commitment, dedication, and courage of everyone who fought for the freedom of the Republic of Vietnam.

6) Annually, Vietnamese Americans around the world recognize the Republic of Vietnam Armed Forces Day on June 19, and this year, 2021, marks the 56th anniversary of this annual commemoration.

7) Thousands of veterans of the South Vietnamese Armed Forces now reside in the United States and participate in activities sponsored by American veterans, including Memorial Day, Veterans Day, and Independence Day, and today there are more than 100,000 veterans from the Republic of Vietnam living in California.

8) These servicemembers who paid the ultimate sacrifice for their nation and have contributed greatly to the development of our society deserve to be honored and recognized.

This resolution recognizes June 19, 2022, as Veterans of the Republic of Vietnam Armed Forces Day, in memory of the soldiers who sacrificed their lives for freedom and democracy and the victims of the Vietnam War, and in honor of the survivors, activists, and freedom fighters of that war.

Related/Prior Legislation

The following are the most recent measures recognizing Veterans of the Republic of Vietnam Armed Forces Day:

- ACR 134 (Nguyen, pending in Assembly Rules Committee).
- SCR 3 (Umberg, Resolution Chapter 79, Statutes of 2021).
- ACR 72 (Nguyen, Resolution Chapter 74, Statutes of 2021).
- SCR 59 (Umberg, 2020) – died on the Senate Inactive File.

FISCAL EFFECT: Appropriation: No Fiscal Com.: No Local: No

SUPPORT: (Verified 3/22/22)

None received

OPPOSITION: (Verified 3/22/22)

None received

Prepared by: Melissa Ward / SFA / (916) 651-1520
3/23/22 15:13:24

****** END ******

SENATE RULES COMMITTEE SCR 85
Office of Senate Floor Analyses
(916) 651-1520 Fax: (916) 327-4478

THIRD READING

Bill No: SCR 85
Author: Umberg (D), et al.
Amended: 3/28/22
Vote: 21

SUBJECT: Black April Memorial Month

SOURCE: Author

DIGEST: This resolution proclaims the month of April 2022 as Black April Memorial Month, a special time for Californians to remember the countless lives lost during the Vietnam War era and to hope for more justice and liberty for the people of Vietnam.

Senate Floor Amendments of 3/28/22 add a coauthor and add several new findings to the resolution. One finding relates to the timing of the Vietnam War and the number of troops and civilians who died or were missing as a result of the war. A few additional findings relate to the Vietnamese Boat People Project Committee's work, including a monument built in Orange County as a symbol of historical and spiritual significance where families and others can visit and pay their respects to the legacy of the Vietnamese boat people.

ANALYSIS: This resolution makes the following legislative findings:

1) April 30, 2022, marks the 47th year since the Fall of Saigon, on April 30, 1975, to communism. During the Fall of Saigon, millions of Vietnamese people and their families, including, but not limited to, former military personnel, government officials, and those who had worked for the United States during the war, fled Vietnam to surrounding areas and the United States.

2) The Vietnam War began in 1954 and ended in 1975. The war started soon after the Geneva Conference, which divided Vietnam into two nations at the 17th parallel. It is estimated that over 58,200 members of the United States Armed Forces, almost 250,000 South Vietnamese soldiers, as many as 2,000,000 civilians on both sides, and some 1,100,000 North Vietnamese and Viet Cong fighters had died or were missing as a result of the war. The United States

committed some 550,000 troops to the Vietnam front lines at the height of the conflict and a total of 9,087,000 military personnel served on active duty during the official Vietnam War era from August 5, 1964, to May 7, 1975, inclusive.

3) The Vietnam War is marked as a tragedy for not only Vietnam and Vietnam-era veterans who were directly involved in the war, it is one full of great suffering and loss for the Vietnamese civilians and the Vietnamese Americans who crossed the sea to find this land of freedom as their safe haven. These Vietnamese American refugees had soon become a part of, and continue to contribute to, our American diversified culture and economy today. According to the United States Census 2010, more than 580,000 Vietnamese live in California, with the largest concentration of Vietnamese found outside of Vietnam residing in the Counties of Orange and Santa Clara.

4) Remembering the Vietnamese refugees is meant to remind us about a period of historical events, which were marked by the overcoming of loss and struggle, as many Vietnamese people escaped from an oppressive communist regime in the pursuit of freedom and human rights.

5) Human rights, religious freedom, democracy, and protection against threats of aggression are important concerns of Vietnamese Americans and Vietnamese communities worldwide as a result of human rights abuses that continue to occur in Vietnam in the following areas: child labor, human trafficking, religious and political persecution, suppression of the press, unlawful deprivation of life, forced disappearances, and land seizure, among others.

6) We must teach our children and future generations important lessons from the Vietnam War and the continuing situation in Vietnam, including how the plight of the Vietnamese refugees following the end of the war serves as a powerful example of the values of freedom and democracy.

7) We, the people of California, should actively rededicate ourselves to the principles of human rights, individual freedom, sovereignty, and equal protection under the laws of a just and democratic world. Californians should set aside moments of time every year on April 30 to give remembrance to the soldiers, medical personnel, and civilians who died during the Vietnam War in pursuit of freedom and democracy.

8) In commemoration of Black April, we would like to take a moment of silence for the veterans of the United States of America and the Republic of Vietnam in memory of the soldiers of the United States Army and Republic of Vietnam who died during the Vietnam War. With this moment of silence, we remember

the countless innocent lives affected by the war, and those that continue to live with these traumatic experiences, and developed resilience to overcome these extreme challenges. We respect and honor the Vietnamese-American community in California that has grown steadily, greatly contributing to our society in every way.

9) Vietnamese American communities throughout California will commemorate April 30, 2022, as Black April, a day of remembrance and rededication to the principles of freedom, including freedom of religion, freedom of expression, freedom of the press, and internet freedom.

This resolution states that in recognition of the great tragedy and suffering and lives lost during the Vietnam War, the month of April 2022 shall be proclaimed Black April Memorial Month, a special time for Californians to remember the countless lives lost during the Vietnam War era and to hope for more justice and liberty for the people of Vietnam.

Related/Prior Legislation

The following are the most recent measures proclaiming Black April Memorial Month:

- ACR 113 (Nguyen, 2022) – pending in Assembly Rules Committee.
- SCR 2 (Umberg, Resolution Chapter 34, Statutes of 2021).
- ACR 4 (Nguyen, Resolution Chapter 37, Statutes of 2021).
- SCR 7 (Umberg, 2019) – died in Assembly Rules Committee.
- ACR 60 (Diep, 2019) – died in Senate Rules Committee.

FISCAL EFFECT: Appropriation: No Fiscal Com.: No Local: No

SUPPORT: (Verified 3/29/22)

None received

OPPOSITION: (Verified 3/29/22)

None received

Prepared by: Melissa Ward / SFA / (916) 651-1520
3/30/22 15:10:53

****** END ******

SENATE RULES COMMITTEE SCR 87
Office of Senate Floor Analyses
(916) 651-1520 Fax: (916) 327-4478

THIRD READING

Bill No: SCR 87
Author: Nielsen (R), et al.
Introduced: 3/14/22
Vote: 21

SUBJECT: Enrolled Agents Day

SOURCE: California Society of Enrolled Agents

DIGEST: This resolution recognizes April 15, 2022, as Enrolled Agents Day to commemorate the contributions that California's professional enrolled agents have made for 50 years to taxpayers, businesses, and tax agencies.

ANALYSIS: This resolution makes the following legislative findings:

1) The enrolled agent profession was created in 1884 at the end of the Civil War to represent citizens before the United States Treasury Department. Since that time, the profession has evolved with today's enrolled agents being high-level tax practitioners licensed by the Internal Revenue Service, thus guaranteeing the highest standards of tax expertise.

2) In 1972, a group of enrolled agents formed the founding chapter of an organization dedicated to enrolled agents in Los Angeles. Within one year it was the largest organization of enrolled agents in the nation and was the basis for what would later become the National Association of Enrolled Agents. Seven years later, the California Society of Enrolled Agents was formed.

3) Enrolled agents have been at the forefront of effective tax administration, working with both federal and state tax agencies to ensure taxpayers comply with tax laws. Enrolled agents assist taxpayers and business entities with the preparation of the many required tax forms as well as more complex issues like audits, liens, levies, appeals, and collections. Enrolled agents have been an important asset to taxpayers and tax agencies in California.

4) Their knowledge, professionalism, and integrity make the enrolled agent "America's Tax Expert." Enrolled agents deserve to be recognized for the efforts they have put forth since 1884 in serving California's taxpayers.

This resolution recognizes April 15, 2022, as Enrolled Agents Day to commemorate the contributions that California's professional enrolled agents have made for 50 years to taxpayers, businesses, and tax agencies.

FISCAL EFFECT: Appropriation: No Fiscal Com.: No Local: No

SUPPORT: (Verified 3/22/22)

California Society of Enrolled Agents (source)

OPPOSITION: (Verified 3/22/22)

None received

Prepared by: Karen Chow / SFA / (916) 651-1520
3/23/22 15:13:25

****** END ******

SENATE RULES COMMITTEE SCR 88
Office of Senate Floor Analyses
(916) 651-1520 Fax: (916) 327-4478

THIRD READING

Bill No: SCR 88
Author: Dodd (D), et al.
Introduced: 3/17/22
Vote: 21

SUBJECT: California Wines: Down to Earth Month

SOURCE: Wine Institute

DIGEST: This resolution proclaims, in perpetuity, the month of April as California Wines: Down to Earth Month, to celebrate the sustainable leadership of California wineries and winegrape growers throughout the month of April.

ANALYSIS: This resolution makes the following legislative findings:

1) In 2001, Wine Institute and the California Association of Winegrape Growers created the California Code of Sustainable Winegrowing and the vast majority of the state's vineyards and wineries have since embraced the code, making it the most widely adopted sustainable winegrowing program worldwide in terms of winegrape acreage and wine production.

2) The California Code of Sustainable Winegrowing, managed by the California Sustainable Winegrowing Alliance, is composed of over 200 best practices for vineyards and wineries that benefit the environment, employees, neighbors, and the production of high-quality wine.

3) Other state and regional sustainability programs, such as Fish Friendly Farming, Lodi Rules, Napa Green, and Sustainability in Practice (SIP Certified), along with organic and biodynamic certifications and regional sustainability commitments, all play an important role in the California wine communities' efforts to grow grapes and produce wine in a manner that is environmentally sound, economically feasible, and socially equitable.

4) California's wine community continually measures its impressive progress in conserving water, energy, and other natural resources; protecting habitat,

employee well-being, and air, water, and soil quality; and promoting the use of natural pest management and alternative energy and fuels.

5) California growers' and vintners' commitment to sustainability was recognized with three Governor's Environmental and Economic Leadership Awards.

6) California's wineries and regional associations host Down to Earth Month and Earth Day activities such as eco-tours, virtual events pairing sustainably produced wine and food, and other green activities during the month of April.

This resolution proclaims, in perpetuity, the month of April as California Wines: Down to Earth Month, to celebrate the sustainable leadership of California wineries and winegrape growers throughout the month of April.

Related/Prior Legislation

ACR 54 (Aguiar-Curry, Resolution Chapter 30, Statutes of 2021) proclaimed the month of April 2021 as California Wines: Down to Earth Month.

SCR 23 (McGuire, Resolution Chapter 46, Statutes of 2019) proclaimed the month of April 2019 as California Wines: Down to Earth Month.

FISCAL EFFECT: Appropriation: No Fiscal Com.: No Local: No

SUPPORT: (Verified 3/30/22)

Wine Institute (source)

OPPOSITION: (Verified 3/30/22)

None received

Prepared by: Karen Chow / SFA / (916) 651-1520
3/30/22 15:10:54

****** END ******

SENATE RULES COMMITTEE SCR 89
Office of Senate Floor Analyses
(916) 651-1520 Fax: (916) 327-4478

THIRD READING

Bill No: SCR 89
Author: Newman (D)
Introduced: 3/23/22
Vote: 21

SUBJECT: State scientists

SOURCE: California Association of Professional Scientists

DIGEST: This resolution recognizes and pays tribute to the dedication and professionalism of the state scientists who work on behalf of all the residents of California.

ANALYSIS: This resolution makes the following legislative findings:

1) The state employs nearly 3,000 professional scientists in over 30 state departments working in more than 81 scientific classifications. State scientists hold graduate degrees in virtually every scientific discipline, including biology, nematology, virology, seismology, epidemiology, toxicology, and many others.

2) State scientists are required to make critical decisions every day based on rigorous scientific fact-finding, and these decisions ultimately protect the health, lives, and property of all Californians.

3) State scientists perform important work in the areas of infectious disease prevention, oil spill prevention and cleanup, public health drinking water monitoring, the protection of agricultural crops, brownfields mitigation, chemical and radiological disaster response, and much more.

4) State scientists are represented by the California Association of Professional Scientists (CAPS), which is dedicated to professionalism, independence, and responsible advocacy.

5) CAPS regularly features the important work of its members to educate the public and policymakers about the important work state scientists perform to protect the public from life-threatening diseases, safeguard our wildlife and

abundant natural resources, and protect our air and water from toxic waste and pollution.

6) State scientists have sparked an interest in science for thousands of California schoolchildren, legislators, state employees, and members of the public by sponsoring the annual State Scientist Day at the Capitol, which was unfortunately postponed this year due to the COVID-19 pandemic.

This resolution recognizes and pays tribute to the dedication and professionalism of the state scientists who work on behalf of all the residents of California.

Related/Prior Legislation

SCR 35 (Rubio, Resolution Chapter 63, Statutes of 2019) recognized May 8, 2019, as the 31st Annual State Scientist Day and declared that this day shall be a tribute to the dedication and professionalism of the state scientists who work on behalf of all the residents of California.

ACR 161 (Limon, Resolution Chapter 89, Statutes of 2018) recognized May 10, 2018, as the 30th Annual State Scientist Day, as a tribute to the dedication and professionalism of the state scientists who work on behalf of all the residents of California.

ACR 18 (Quirk, Resolution Chapter 57, Statutes of 2017) declared May 10, 2017, as the 29th Annual State Scientist Day, as a tribute to the dedication and professionalism of the state scientists who work on behalf of all the residents of California.

FISCAL EFFECT: Appropriation: No Fiscal Com.: No Local: No

SUPPORT: (Verified 3/29/22)

California Association of Professional Scientists (source)

OPPOSITION: (Verified 3/29/22)

None received

Prepared by: Jonas Austin / SFA / (916) 651-1520
3/30/22 15:10:55

****** END ******

Office of Senate Floor Analyses
(916) 651-1520 Fax: (916) 327-4478

THIRD READING

Bill No: SJR 11
Author: Skinner (D)
Introduced: 2/18/22
Vote: 21

SENATE LABOR, PUB. EMP. & RET. COMMITTEE: 4-0, 3/21/22
AYES: Cortese, Durazo, Laird, Newman
NO VOTE RECORDED: Ochoa Bogh

SUBJECT: The Social Security 2100 Act: A Sacred Trust

SOURCE: Author

DIGEST: This resolution calls on the California Congressional Representatives to bring the Social Security 2100 Act: A Sacred Trust to a vote and support the passage of that federal legislation.

ANALYSIS:

Existing law:

1) Requires that a beneficiary's Social Security allowance be offset if the beneficiary also receives a government pension and was employed by an employer not coordinated with Social Security (42 U.S. Code § 403, 20 CFR § 404.243).

2) Requires that a beneficiary's spouse, widow, or widower, may receive a reduced Social Security benefit if the beneficiary also receives a government pension and was employed by an employer not coordinated with Social Security (42 U.S. Code § 403, 20 CFR § 404.408a).

This resolution:

1) Calls on the Congressional Representatives of California to bring to a vote, during this Congress, and vote in favor of the Social Security 2100 Act: A Sacred Trust.

2) Makes various findings and declarations:

   a) Social Security is unquestionably the most important source of retirement income, life insurance, and disability insurance for most Californians, including seniors, children, veterans, women, people of color, members of the LGBTQ community, and, indeed, for all working families across the nation.
   b) Protecting and expanding Social Security is imperative to solving the looming retirement income crisis facing our nation, as defined benefit pension plan coverage declines and as our ever-increasing wealth inequality leaves most Americans unable to save anything for retirement.
   c) The last time Congress expanded Social Security coverage and increased its benefits was during the presidency of California's Richard Nixon.
   d) Expanding Social Security is essential to lifting and keeping hundreds of thousands of Californians out of poverty, while reducing the level of poverty for countless others.
   e) The last time Congress acted to eliminate Social Security's projected shortfall was in 1983 when another Californian, Ronald Reagan, was president. This entailed a benefit cut of 25 percent by the time the legislation, still being phased in, would be fully implemented.
   f) As the wealthiest country in the history of the world, America can well afford to protect and expand Social Security. Social Security is projected, in 2095, to cost only 5.89 percent of gross domestic product, a significantly lower percentage than most industrialized countries spend on counterpart programs today.
   g) Under existing law, the Social Security Trust Fund is projected to have sufficient resources to meet its obligations through only 2034 after which time it would be able to pay 78 percent of program costs.
   h) Due to income inequality, the maximum amount of earnings against which Social Security contributions are assessed has declined from covering 90 percent of nationwide wages, as Congress intended, to covering only 83 percent.
   i) The Social Security 2100 Act pays for every penny of expansions, while cutting the projected long-range shortfall by more than one-half, by

requiring the highest paid earners to contribute to Social Security on earnings over $400,000 at the same rate as virtually all other workers.

j) The Social Security 2100 Act only requires those earning above $400,000 to contribute more, and they would receive higher benefits because of those contributions.
k) Large majorities of Republicans, Democrats, and Independents support Social Security expansion.
l) In the month of November 2021 alone, over 65 million Americans received Social Security benefits, totaling over $94,000,000,000 and including over $8,600,000,000 received by over six million Californians.
m) Expanding Social Security will strengthen the economy and create jobs. Most Social Security beneficiaries spend their benefits immediately in the local communities in which they live, particularly in rural communities, which tend to be home to larger percentages of seniors (one in four rural Californians received benefits in 2014).

Comments

Social security is one of the most beloved and longstanding social programs that provides direct transfer payments from a trust fund to social security beneficiaries, namely retired people and those who cannot work for other reasons. It is responsible for keeping some of our most vulnerable citizens from falling into destitution and homelessness, in many cases saving the lives of recipients. Benefits are paid out from the social security trust fund, a depository into which current workers pay a portion of their income in the form of a payroll tax in return for the promise that they will someday be able to access these benefits.

The Government Pension Offset (GPO) and the *Windfall Elimination Provision (WEP).* Under federal law, two deduction offsets to Social Security benefits affect state and local public employees who work for an employer in a position not coordinated with Social Security and who receive a government pension upon retirement.

The GPO affects individuals who earn a government pension based on work where the employee did not pay into Social Security but is eligible for a Social Security dependent's benefit. The GPO reduces the dependent's Social Security benefit by two-thirds of the amount of the individual's government pension.

The WEP affects individuals who receive both a pension based on non-covered service and who also qualify for a Social Security retirement or disability benefit from working in covered service. The WEP results in a pro rata reduction of 40 to

90 percent of one of the three factors used in determining the average monthly earnings upon which the Social Security benefit is based depending on how many years of qualifying earnings the individual has in Social Security.

In California, the WEP and GPO primarily affect teachers and public safety officers who begin their careers in the private sector and earn enough qualifying quarters to receive a Social Security benefit but then move to careers in the public sector to a job not coordinated with Social Security. Many of these employees do not learn of the consequences to their Social Security benefits until they apply to begin receiving Social Security.

SJR 11 and Social Security. For a variety of reasons, the social security trust fund has come under scrutiny as to whether it is overpromising to future retirees. Critics point to the sheer size of the baby boomer generation, which is rapidly approaching retirement age, and funding mechanisms to conclude that the fund is insolvent and costs too much of the federal budget. The Social Security 2100 Act attempts to solve part of this problem by eliminating the cap on workers' taxable salaries at $142,800. Currently, wages up to $142,800 are taxed at 6.2%, matched by their employer; the Social Security 2100 Act would raise this to $400,000, thereby collecting more taxes from higher wage earners. This additional funding would be used to increase eligibility for benefits, repeal the WEP and the GPO, and provide cost of living adjustments to help mitigate inflation.

Related/Prior Legislation

SJR 3 (Wilk, Resolution Chapter 129, Statues of 2019) petitioned the United States Congress to enact, and the President of the United States to sign, legislation to repeal the Government Pension Offset and the Windfall Elimination Provision from the Social Security Act and instructed the Secretary of the Senate to transmit copies of this resolution to members of Congress.

FISCAL EFFECT: Appropriation: No Fiscal Com.: No Local: No

SUPPORT: (Verified 3/22/22)

California Alliance for Retired Americans
California Civil Rights Law Group
California Democratic Party Senior Caucus
California In-Home Supportive Services Consumer Alliance
California Labor Federation, AFL-CIO
California Nurses Association
California Rural Legal Assistance Foundation, Inc.

California State Retirees
Consumer Federation of California
Fresno, Madera, Tulare, Kings Counties, Central Labor Council, AFL-CIO
Gray Panthers of San Francisco
Kern Inyo Mono Central Labor Council
Long Beach Gray Panthers
Santa Rosa Democratic Club
Senior Disability Action
The Community Living Center

OPPOSITION: (Verified 3/22/22)

None received

ARGUMENTS IN SUPPORT: The California Labor Federation, AFL-CIO writes in support:

> [The Social Security 2100 Act] takes substantial steps to reduce the projected funding shortfall while implementing the single greatest equity expansion of Social Security benefits in program history, including: the repeal of the Government Pension Offset and Windfall Elimination Provision, which reduced benefits for 325,000 Californians in 2020; a 2% across-the-board benefits increase, including setting the minimum benefit at 25% above the poverty line – not below it; improved benefits for widows and widowers; the elimination of the five month waiting period for enrollees to receive Disability Insurance; implementation of a caregiver credit to ensure workers' Social Security accruals are not jeopardized when they leave the workforce to care for a loved one; protections for beneficiaries against inflation by integrating a new cost-of-living-adjustment formula, CPI-E, which better reflects consumer trends and expenditures for seniors; and finally, providing funding stability by requiring earners over $400,000 annually to pay their fair share.

Prepared by: Jake Ferrera / L., P.E. & R. / (916) 651-1556
3/23/22 15:13:31

****** END ******

Office of Senate Floor Analyses
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THIRD READING

Bill No: SJR 12
Author: Skinner (D) and Atkins (D), et al.
Introduced: 3/3/22
Vote: 21

SENATE JUDICIARY COMMITTEE: 9-0, 3/29/22
AYES: Umberg, Durazo, Gonzalez, Hertzberg, Laird, McGuire, Stern, Wieckowski, Wiener
NO VOTE RECORDED: Borgeas, Jones

SUBJECT: Equal Rights Amendment

SOURCE: Author

DIGEST: This resolution makes a series of legislative findings and declarations about the history, potential benefits, and current status of the Equal Rights Amendment (ERA) to the U.S. Constitution. The ERA provides that neither the federal government nor the states shall deny or abridge equal rights under the law on the basis of sex. This resolution goes on to urge Congress to pass a resolution of its own finding that the requirements for ratification of the ERA have been met and that the ERA is now part of the U.S. Constitution.

ANALYSIS:

Existing law:

1) Provides that the U.S. Congress, whenever two thirds of both houses shall deem it necessary, shall propose amendments to this Constitution, which shall be valid to all intents and purposes, as part of this Constitution, when ratified by the legislatures of three-fourths of the several states, or by conventions in three fourths thereof, as the one or the other mode of ratification may be proposed by the Congress. (U.S. Const., art. V.)

2) Establishes that whenever official notice is received at the U.S. National Archives and Records Administration that any amendment proposed to the

Constitution of the United States has been adopted, according to the provisions of the Constitution, the Archivist of the United States shall forthwith cause the amendment to be published, with the Archivist's certificate, specifying the States by which the same may have been adopted, and that the same has become valid, to all intents and purposes, as a part of the Constitution of the United States. (1 U.S.C. 106b.)

This resolution:

1) Makes legislative findings and declarations that:

   a) Explain that the ERA provides a constitutional guarantee that "[e]quality of rights under the law shall not be denied or abridged by the United States or by any State on account of sex."
   b) Set forth some of the potential benefits of the ERA for gender equity in the United States.
   c) Detail the history of passage of the ERA by Congress, its ratification by the states, and where the ERA stands today.

2) Requests that the U.S. Congress pass House Resolution 891, resolving that the requirements have been met to ratify the ERA and that is shall now be known as the "Twenty-Eighth Amendment to the Constitution."

3) Directs the Secretary of the Senate to transmit copies of the resolution to the President and the Vice President of the United States, and to the Members of the United States Congress.

Comments

1) *The relevant process for proposal and ratification of an amendment to the U.S. Constitution.* The U.S. Constitution sets forth two ways by which it can be amended. (U.S. Const., art. V.) One – never used to date and not relevant to this resolution – involves the initiation of a constitutional convention. The other – which lies at the heart of this resolution – begins when two-thirds of each house of Congress votes to propose the amendment to the states. According to the text of the U.S. Constitution, that proposed amendment "shall be valid to all intents and purposes, as part of this Constitution, when ratified by the legislatures of three-fourths of the several states, or by conventions in three-fourths thereof, as the one or the other mode of ratification may be proposed by the Congress."

To these procedures expressly set forth in the text of the Constitution, Congress has added another statutory requirement which is not in that text. Specifically, Congress has assigned the Archivist of the United States the duty of receiving the states' formal notice when they have ratified a proposed amendment as well as the role of certifying the moment when the requisite number of states have ratified the proposed amendment for it to become part of the U.S. Constitution. (1 U.S.C. 106b.)

2) *The substance of the ERA.* As proposed by Congress in 1972 for ratification by the states, the text of the ERA is as follows:

> Section 1: Equality of rights under the law shall not be denied or abridged by the United States or by any state on account of sex.
>
> Section 2: The Congress shall have the power to enforce, by appropriate legislation, the provisions of this article.
>
> Section 3: This amendment shall take effect two years after the date of ratification. (86 Stat. 1523.)

According to the findings of this resolution, the ramifications of the incorporation of the ERA into the U.S. Constitution are profound and strongly benefit the goal of equity for women, girls, and gender-expansive individuals. Among other things, the resolution states that the ERA provides individuals a fundamental legal remedy against sex discrimination and clarifies the legal status of sex discrimination for the courts. Absent the ERA, the resolution finds:

> [l]egislation and case law that has resulted in extraordinary progress for women has the potential to be ignored, weakened, or reversed. Congress can amend or repeal legislation advancing equality with a simple majority vote, the presidential administration can weakly enforce these laws, and the United States Supreme Court can continue to use intermediate scrutiny when reviewing cases concerning gender […].

3) *Complications on the journey to ratification.* As the resolution points out, the ERA was first introduced in Congress in 1923. It was brought before Congress nearly every year after that until it finally received the requisite two-thirds

approval of the House of Representatives and the Senate in 1972. The ERA then went out to the various states for ratification.

Initial momentum for the ERA was strong, including early ratification by California. Over time, however, that momentum began to slow. By 1977, ERA ratifications had come to a halt with just three more ratifications needed to meet the required threshold of 38. That is the way things remained for four decades until, in 2017, a renewed push led Nevada to ratify the ERA, followed by Illinois in 2018, and, finally, Virginia in 2020.

Virginia's ratification may have given the ERA everything it needs to be incorporated into the U.S. Constitution, but there are two complicating factors.

a) *The deadline issue.* First, when Congress first proposed the ERA to the states, it established a seven-year deadline for the states to provide the requisite number of ratifications. ("[T]he following article… shall be valid… when ratified by the legislatures of three-fourths of the several states within seven years…" H.R.J Res. 208 (1972) 92d Cong., 2d Sess.) Though Congress later extended that deadline for an additional period when it became clear it could not be met, ultimately the deadline expired long before the ERA reached 38 ratifications.

   The legal significance of the deadline is a subject of debate, however. On the one hand, the U.S. Supreme Court has given its blessing to congressionally-imposed deadlines for ratification and even suggested that in the absence of such a time limit, a proposed constitutional amendment might not be valid if not ratified by the requisite number of states within a "sufficiently contemporaneous" time "to reflect the will of the people in all sections at relatively the same period." (*Dillon v. Gloss* (1921) 256 U.S. 368, 375.) On the other hand, nothing in the text of the Constitution empowers Congress to set such deadlines and, in subsequent rulings, the U.S. Supreme Court has taken a slightly different approach, holding that the determination whether a proposed amendment has been ratified by the states within a sufficient period of time is a "political question" best left to Congress. (*Coleman v. Miller* (1939) 307 U.S. 433.) In fact, apparently drawing on this authority, Congress passed a resolution in 1992 adopting the so-called Madison Amendment into the Constitution as the 27th Amendment after it received its 38th ratification – nearly 203 years after Congress first proposed it to the states for consideration. (H.Con.Res.320 — 102nd Congress (1991-1992; S.Con.Res.120 — 102nd Congress (1991-1992).) As an additional argument

for why the ratification deadline has no binding legal effect, at least in the case of the ERA, some legal scholars point out that the congressional deadline for ratification of the ERA is set forth in the proposing clause, not within the text that the states actually ratified.

b) *The ratification rescission issue*. The second complication is that, before and after Virginia provided the 38th ratification of the ERA, a number of states have attempted to rescind their ratifications. If counted against the total, these rescissions would leave the ERA still short of the three-fourths threshold. Here again, however, there is room for debate. It is not crystal clear that states can rescind their ratification of a proposed amendment. Some historical precedent suggests they cannot. Proponents of the ERA highlight the fact that, during the ratification process for the 14th Amendments to the U.S. Constitution, two states claimed to have rescinded their ratifications, but the amendment was incorporated into the U.S. Constitution anyway. On the other hand, as the one federal district court to confront the question concluded (in a decision later vacated when the U.S. Supreme Court concluded that the case has become moot): "[u]ntil the technical three-fourths has been reached, a rescission of a prior ratification is clearly a proper exercise of a state's power granted by the article V phrase 'when ratified' […]." (*Idaho v. Freeman* (D.Idaho 1981) 529 F.Supp. 1107, 1150; vac'd as moot by *NOW, Inc. v. Idaho* (1982) 459 U.S. 809.)

4) *Where the ERA stands today*. Two years have now passed since Virginia submitted its ratification of the ERA to the National Archivist, David Ferriero. To date, however, Ferriero has declined to publish or certify the ERA as the 28th Amendment to the U.S. Constitution. Based on a 2020 Office of Legal Counsel opinion (Ratification of the Equal Rights Amendment (2020) 44 Op. O.L.C. ___, slip op., https://www.justice.gov/olc/file/1232501/download [as of Mar. 19, 2022]), Ferriero has taken the position that he will not certify the ERA unless ordered to do so by a final court order. (*Virginia v. Ferriero* (D.D.C. 2021) 525 F. Supp. 3d 36, 43.) Nevada, Illinois, and Virginia, as the last three states to ratify the ERA, have filed a lawsuit seeking precisely such a court order. (*Id*. at 40.) Earlier this month, however, a federal district court for the District of Columbia dismissed that case, ruling that the National Archivist could refuse to certify the ERA based on the fact that only 35 states had ratified it by the congressionally imposed deadline. (*Ibid*.) The states have appealed to the D.C. Circuit.

5) *About House Resolution 891*. The key request in this resolution is for Congress to pass House Resolution 891, 117th Congress (2021-2022 Sess.). Introduced by Representative Jackie Speier, H.R. 891 would formally express the view of the House of Representatives that the ERA "has met the requirements of the Constitution and become valid to all intents and purposes as a part of the Constitution, and shall be known as the 'Twenty-Eighth Amendment to the Constitution.'" Addressing the issues surrounding expiration of the ratification deadline and the rescission of some ERA ratifications, H.R. 891 explains that no time limit exists within the text of the proposed amendment that was ratified by more than three-fourths of the States; the Fourteenth Amendment in 1868 was published to the Constitution despite two States purporting to rescind their ratifications; and the Archivist of the United States has a statutory and ministerial duty to certify that a proposed amendment to the Constitution is valid and has become part of the Constitution once it is ratified by more than three-fourths of the States.

FISCAL EFFECT: Appropriation: No Fiscal Com.: No Local: No

SUPPORT: (Verified 3/30/22)

None received

OPPOSITION: (Verified 3/30/22)

None received

ARGUMENTS IN SUPPORT: According to the author:

> The time is now to enshrine an explicit prohibition on sex discrimination. The ERA advances justice for women, girls, and gender expansive individuals, and will make clear that that laws inconsistent with equality for women can be deemed unconstitutional as they perpetuate inequality and illicit stereotypes about gender roles. The ERA would bring us closer to a world where all people can make important decisions about their health, employment, lives, families, and futures—free from political interference. SJR 12 affirms the need for the Equal Rights Amendment, urges the National Archivist to certify and publish the ratification of the ERA, and also urges Congress to pass House Resolution 891 – a federal resolution

that would ensure the ERA is added to the U.S. Constitution as the 28th amendment.

Prepared by: Timothy Griffiths / JUD. / (916) 651-4113
3/30/22 15:26:31

****** END ******

SENATE RULES COMMITTEE SR 45
Office of Senate Floor Analyses
(916) 651-1520 Fax: (916) 327-4478

THIRD READING

Bill No: SR 45
Author: Min (D)
Amended: 3/16/22
Vote: Majority

SENATE JUDICIARY COMMITTEE: 9-0, 3/29/22
AYES: Umberg, Durazo, Gonzalez, Hertzberg, Laird, McGuire, Stern, Wieckowski, Wiener
NO VOTE RECORDED: Borgeas, Jones

SUBJECT: Academic Freedom

SOURCE: Faculty Association of California Community Colleges

DIGEST: This resolution recognizes that academic freedom for college and university professors is essential, which allows them to articulate or even advocate positions or concepts within their subject matter that may be controversial in nature without fear of retribution or reprisal; and resolves that policies protecting academic freedom are a necessary requisite for teaching and learning in California's colleges and universities.

ANALYSIS:

Existing law:

1) Prohibits governments from adopting any law or policy abridging the freedom of speech, or of the press, or of the right of the people to peaceably assemble, and to petition the government for redress of grievances. (U.S. Const., 1st & 14th Amends.)

2) Provides that every person may freely speak, write, and publish their sentiments on all subjects—and is responsible for the abuse of this right—and prohibits any law that restrains or abridges liberty of speech or press. (Cal. Const., Art. I, § 2.)

3) Requires the governing board of a community college district to adopt rules and regulations relating to the exercise of free expression by students upon the premises of each community college maintained by the district, which shall include reasonable provisions for the time, place, and manner of conducting such activities. (Ed. Code § 76120.)

4) Requires the governing board of a community college district to adopt a policy statement on academic freedom and make the policy statement available to the faculty. (Cal. Code Regs., Tit. 5, § 51023(a).)

This resolution:

1) Makes the following findings:

   a) Freedom of thought and expression are necessary for every higher education institution.

   b) "Academic freedom" means the freedom of teaching faculty to teach, conduct research, and speak as citizens without interference or restraint by the institution, boards of trustees, political figures, or other entities.

   c) Academic freedom is foundational for the free flow of knowledge, ideas, and governance on college campuses.

   d) In 1940, the American Association of University Professors issued a statement of principles on academic freedom and tenure, which describes college and university faculty as "citizens, members of a learned profession, and officers of an educational institution."

   e) The statement establishes that, when college and university teachers "write as citizens, they should be free from institutional censorship or discipline, but their unique position in the community imposes special obligations," and that those teachers "should at all times be accurate, should exercise appropriate restraint, should show respect for the opinions of others, and should make every effort to indicate that they are not speaking for the institution."

   f) Many colleges and universities are engaged in Diversity, Equity, and Inclusion work, requiring necessary, valuable, and potentially uncomfortable conversations and dialogue, and faculty across the state are engaging in these conversations with students in their classrooms.

g) Existing state regulations require the governing board of a community college district to adopt a policy statement on academic freedom and make the statement available to the faculty.

h) Local community college district academic freedom policies adopted by independent governing boards vary greatly, so the state lacks the uniformity necessary to uphold and ensure the principles of academic freedom across all of California's community colleges.

i) Academic freedom policies are in some, but not all, collective bargaining agreements; this inconsistency also contributes to the lack of uniformity and comparability for academic freedom across all of California's community colleges.

2) Resolves by the Senate of the State of California that:

a) The Senate recognizes that academic freedom, as defined by the American Association of University Professors (AAUP), entitles teachers to "full freedom in research and in the publication of the results, subject to adequate performance of their other academic duties; but research for pecuniary return should be based upon an understanding with the authorities of the institution."

b) The Senate recognizes that academic freedom, as defined by the American Association of University Professors, entitles teachers to freedom in the classroom discussing their discipline, and states that teachers should not introduce into their teaching matter that has no relation to their subject.

c) Under an academic freedom policy, within their discipline, a faculty member can, within their discipline, articulate or even advocate positions or concepts that may be controversial in nature without fears of retribution or reprisal by the institution.

d) The Senate declares that academic freedom is an essential requisite for teaching and learning in California Community Colleges.

e) The Secretary of the Senate shall transmit copies of the resolution to the Board of Governors of the California Community Colleges and the Chancellor of the California Community Colleges.

Comments

According to the author:

> Academic freedom is the degree to which faculty at an institution are allowed latitude with respect to their discussions with students and the positions they take, serving as a free flow of speech, knowledge, and ideas on college campuses. Freedom of thought and expression is necessary for every higher education institution in their pursuit of knowledge.
>
> The American Association of University Professors states that when college and university faculty "write as citizens, they should be free from institutional censorship or discipline, but their unique position in the community imposes special obligations." The Association also declares that faculty should, for that reason, strive to "be accurate…exercise appropriate restraint…show respect for the opinions of others, and should make every effort to indicate that they are not speaking for the institution."[1]
>
> Currently, there is no official standard for California Community Colleges with regard to the academic freedom of its faculty. It is important to define academic freedom and set a standard so that the California Community Colleges can point to this, enforce it, and utilize it in their curriculum and classrooms.

FISCAL EFFECT: Appropriation: No Fiscal Com.: No Local: No

SUPPORT: (Verified 3/30/22)

Faculty Association of California Community Colleges (source)
Academic Senate for California Community Colleges

OPPOSITION: (Verified 3/30/22)

None received

ARGUMENTS IN SUPPORT: According to the sponsor of this resolution, the Faculty Association of California Community Colleges:

> With conservative states waging battles against critical race theory, anti-racism, and even the word "gay," it's imperative California protect the classroom as a

[1] American Association of University Professors, 1940 Statement of Principles on Academic Freedom and Tenure (1940), *available at* **https://www.aaup.org/report/1940-statement-principles-academic-freedom-and-tenure** (last visited 3/17/22).

space for the robust exchange of ideas. This is especially true for part-time faculty whose positions are not protected by the privilege of tenure and are far underrepresented in shared governance processes. Acknowledging the importance of academic freedom will enable faculty to continue working to decolonize curriculum and advance DEIA [Diversity, Equity, Inclusion, and Accessibility] principles by having challenging but necessary dialogues in their classrooms.

Prepared by: Allison Meredith / JUD. / (916) 651-4113
3/30/22 15:10:56

****** END ******

SENATE RULES COMMITTEE SR 67
Office of Senate Floor Analyses
(916) 651-1520 Fax: (916) 327-4478

THIRD READING

Bill No: SR 67
Author: Archuleta (D)
Introduced: 2/10/22
Vote: Majority

SUBJECT: Tardive Dyskinesia Awareness Week

SOURCE: Author

DIGEST: This resolution proclaims the week of May 1, 2022, as Tardive Dyskinesia Awareness Week, and encourages everyone in the United States to become better informed about, and aware of, Tardive Dyskinesia.

ANALYSIS: This resolution makes the following legislative findings:

1) Many people with serious, chronic mental illness, such as schizophrenia and other schizoaffective disorders, bipolar disorder, or severe depression, require treatment with medications that work as dopamine receptor blocking agents (DRBAs), including antipsychotics; and while ongoing treatment with these medications can be very helpful, and even lifesaving, for many people, it can also lead to Tardive Dyskinesia (TD). Many people who have gastrointestinal disorders, including gastroparesis, nausea, and vomiting, also require treatment with DRBAs.

2) TD is a movement disorder that is characterized by random, involuntary, and uncontrolled movements of different muscles in the face, trunk, and extremities. In some cases, people may experience movement of the arms, legs, fingers, and toes. In some case, it may affect the tongue, lips, and jaw. In other cases, symptoms may include swaying movements of the trunk or hips and may impact the muscles associated with walking, speech, eating, and breathing.

3) TD can develop months, years, or decades after a person starts taking DRBAs, and even after they have discontinued use of those medications. Not everyone who takes a DRBA develops TD, but if it develops, it is often permanent.

4) Common risk factors for TD include advanced age and alcoholism or other substance abuse disorders. Postmenopausal women and people with a mood

disorder are also at higher risk of developing TD. Studies suggest that overall risk of developing TD is between 10 and 30 percent.

5) It is estimated that over 500,000 Americans suffer from TD. According to the National Alliance for Mental Illness, one in every four patients receiving long-term treatment with an antipsychotic medication will experience TD.

6) TD is often unrecognized and patients suffering from the illness are commonly misdiagnosed. Regular screening for TD in patients taking DRBA medications is recommended by the American Psychiatric Association.

7) Patients suffering from TD often suffer embarrassment due to abnormal and involuntary movements, which leads them to withdraw from society and increasingly isolate themselves as the disease progresses.

This resolution proclaims the week of May 1, 2022, as Tardive Dyskinesia Awareness Week, and encourages everyone in the United States to become better informed about, and aware of, Tardive Dyskinesia.

Related/Prior Legislation

The following are the most recent measures relating to Tardive Dyskinesia Awareness Week:

- SR 20 (Archuleta, 2021) – adopted by the Senate on May 3, 2021.
- SR 73 (Archuleta, 2020) – adopted by the Senate on June 11, 2020.
- SR 35 (Archuleta, 2019) – adopted by the Senate on May 6, 2019.

FISCAL EFFECT: Appropriation: No Fiscal Com.: No Local: No

SUPPORT: (Verified 2/18/22)

None received

OPPOSITION: (Verified 2/18/22)

None received

Prepared by: Melissa Ward / SFA / (916) 651-1520
2/23/22 13:48:20

****** END ******

Office of Senate Floor Analyses
(916) 651-1520 Fax: (916) 327-4478

THIRD READING

Bill No: SR 77
Author: Cortese (D) and Wiener (D)
Introduced: 3/17/22
Vote: Majority

SUBJECT: Education and Sharing Day, California

SOURCE: Rabbi Mendel Weinfeld, The Chabad House (San Jose)

DIGEST: This resolution proclaims Tuesday, April 12, 2022, as "Education and Sharing Day, California" and calls upon government officials, educators, volunteers, and citizens to reach out to those within their communities and work to create a better, brighter, and more hopeful future for all.

ANALYSIS: This resolution makes the following legislative findings:

1) A high-quality education can set the foundation for the continued success of our state, our country, and our society at large; and the great State of California strives for the betterment of all of our citizens through an increased focus on education and sharing.

2) A high-quality education can provide children with the tools they need to grow in life, to build community, and to reach the highest standards of competence, creativity, and commitment in their field of work.

3) The educational system must also focus on building character by emphasizing the cultivation of universal moral and ethical values that have been the bedrock of society from the dawn of civilization.

4) One of the leading global advocates for the advancement of education, the Lubavitcher Rebbe, Rabbi Menachem Schneerson, stressed the importance of moral and ethical education as the bedrock of humanity and the hallmark of a healthy society, and strongly urged that education be reinforced by the inculcation of strong moral values.

5) In recognition of the Rebbe's outstanding and lasting contributions toward improvements in world education, morality, and acts of charity, he was awarded

the Congressional Gold Medal, and the United States Congress has established his birthdate as a national day to raise awareness and strengthen the education of our children.

6) April 12, 2022, will mark 120 years since the Rebbe's birth, and the date will be celebrated across the United States and around the globe to recognize and honor his lasting legacy.

7) For more than 40 years, the President of the United States has recognized and honored the Rebbe's vision each year on that day by proclaiming it "Education and Sharing Day, U.S.A.".

This resolution proclaims Tuesday, April 12, 2022, as "Education and Sharing Day, California" and calls upon government officials, educators, volunteers, and citizens to reach out to those within their communities and work to create a better, brighter, and more hopeful future for all.

FISCAL EFFECT: Appropriation: No Fiscal Com.: No Local: No

SUPPORT: (Verified 3/30/22)

Rabbi Mendel Weinfeld, The Chabad House (San Jose) (source)

OPPOSITION: (Verified 3/30/22)

None received

Prepared by: Melissa Ward / SFA / (916) 651-1520
3/30/22 15:10:57

****** END ******

SENATE RULES COMMITTEE SR 78
Office of Senate Floor Analyses
(916) 651-1520 Fax: (916) 327-4478

THIRD READING

Bill No: SR 78
Author: Gonzalez (D)
Introduced: 3/21/22
Vote: Majority

SUBJECT: Cambodian Genocide Memorial Week

SOURCE: Author

DIGEST: This resolution recognizes the week of April 11 to April 17, 2022, inclusive, as Cambodian Genocide Memorial Week.

ANALYSIS: This resolution makes the following legislative findings:

1) The Cambodian people have a long and rich cultural heritage symbolized by the capitol city Temple of Angkor Wat, which flourished during the Khmer Empire from the 9th to the 12th centuries and is considered one of the Wonders of the World, and now stands as a living icon of the endurance and genius of all Cambodians throughout the world.

2) The relationship between the United States and Cambodia had been forged through educational and professional exchange, and therefore in 1975, with the impending overthrow of the government by the totalitarian Khmer Rouge regime, the United States accepted over 4,000 Cambodian evacuees to ensure their safety.

3) April 17, 2022, will mark both the 47th anniversary of the Khmer Rouge, led by Pol Pot, seizing control of Cambodia and the beginning of the Cambodian Genocide.

4) Between April 17, 1975, and January 7, 1979, the Khmer Rouge of Democratic Kampuchea, led by Pol Pot, General Secretary of the Communist Party of Kampuchea, and other members of the Standing Committee of the Central Committee of the Communist Party of Kampuchea and their agents, committed acts of genocide and other crimes against humanity.

5) The genocide and other crimes against humanity committed against the people of Cambodia, including various religious groups and ethnic minorities, during the Khmer Rouge regime led to the deaths of over 1,700,000 Cambodians, which was 21 percent of the nation's population.

6) The Khmer Rouge regime also sought to eliminate all aspects of Cambodian culture by systematically killing those with education, separating families, and destroying institutions such as Buddhist temples, schools, libraries, dance, and music.

7) After the overthrow of the Khmer Rouge regime in 1979, over 140,000 Cambodians came to the United States as refugees, a group of special humanitarian and foreign policy concern to the United States because of the well-founded fear of persecution for reasons of race, religion, nationality, membership in a particular social group, or political opinion and thus in need of protection in accordance with the United Nations' 1951 Convention Relating to the Status of Refugees.

8) The Cambodian Genocide Memorial Week will honor the survivors and their descendants for their courage and contributions to our state and country. This week will serve as a way to remember those who lost their lives in Cambodia and in genocides around the world.

This resolution recognizes the week of April 11 to April 17, 2022, inclusive, as Cambodian Genocide Memorial Week, and calls upon all Californians to observe the week by participating in appropriate activities and programs.

Related/Prior Legislation

SR 26 (Gonzalez, 2021) recognized the week of April 11 to April 17, 2021, inclusive, as Cambodian Genocide Memorial Week. The resolution was adopted by the Senate.

HR 32 (O'Donnell, 2021) recognized the week of April 11 to April 17, 2021, inclusive, as Cambodian Genocide Memorial Week. The resolution was adopted by the Assembly.

HR 93 (O'Donnell, 2020) would have recognized the week of April 13 to April 17, 2020, inclusive, as Cambodian Genocide Memorial Week. The resolution died at the Assembly Desk.

FISCAL EFFECT: Appropriation: No Fiscal Com.: No Local: No

SUPPORT: (Verified 3/29/22)

None received

OPPOSITION: (Verified 3/29/22)

None received

Prepared by: Karen Chow / SFA / (916) 651-1520
3/30/22 15:10:58

****** END ******

SENATE RULES COMMITTEE ACR 119
Office of Senate Floor Analyses
(916) 651-1520 Fax: (916) 327-4478

THIRD READING

Bill No: ACR 119
Author: Boerner Horvath (D), et al.
Introduced: 1/6/22
Vote: 21

ASSEMBLY FLOOR: 68-0, 3/14/22 (Consent) - See last page for vote

SUBJECT: Girl Scouts of the USA

SOURCE: Author

DIGEST: This resolution states that the Legislature is proud to join the Girl Scouts of the USA in recognizing their 110th Anniversary.

ANALYSIS: This resolution makes the following legislative findings:

1) On March 12, 1912, the first Girl Scout meeting was held in Savannah, Georgia. In 1917, the Girl Scouts sought a way to financially support their objective of building girls of courage, confidence, and character who make the world a better place, and the first cookie sale began in the kitchens and ovens of Girl Scouts members, with moms volunteering as technical advisers.

2) In 1935, the Girl Scout Federation of Greater New York raised money through the sale of commercially baked cookies. Buying its own die in the shape of a trefoil, the group used the words "Girl Scout Cookies" on the box.

3) Girl Scout Cookie sales teach five skills that are essential to leadership, success, and life: Goal Setting, decisionmaking, money management, people skills, and business ethics. Girls learn that there is no limit to their success and that any goal they set is achievable, as they utilize the skills they learn selling cookies.

4) Through its membership in the World Association of Girl Guides and Girl Scouts, Girl Scouts of the USA (GSUSA) is part of a worldwide family of 10,000,000 girls and women in 146 countries.

5) During the COVID-19 pandemic, GSUSA, as a national organization, saw the need to innovate quickly to protect the safety and health of the girls, volunteers, and staff, and to mitigate as much as possible the personal and business disruptions the pandemic created.

6) In early March 2020, in the wake of the COVID-19 pandemic, regional Girl Scout councils and GSUSA went fully remote, working diligently to maintain programming while keeping the girls, volunteers, and staff safe. The iconic Girl Scout Cookie Program went 100 percent digital as booth sales and deliveries had to be paused indefinitely during what was still the middle of cookie season for many councils and before a few councils even began their seasons.

7) While COVID-19 created many challenges the organization had to meet, it is also in the Girl Scout DNA to innovate and be possibility thinkers. The organization remains committed to providing Girl Scouts the tools they need to create a new future and gain the skills they will need to thrive in it.

8) The Girl Scouts organization develops girls of courage, confidence, and character who make the world a better place.

This resolution states that the Legislature is proud to join the GSUSA in recognizing their 110th anniversary and 105th anniversary of their beloved cookies.

Related/Prior Legislation

The following are the most recent measures relating to the GSUSA:

- SCR 79 (Ochoa Bogh, 2022) declares March 12, 2022, as National Girl Scout Day. (Pending referral in the Assembly)

- ACR 22 (Boerner Horvath, Resolution Chapter 15, Statutes of 2021) recognized the GSUSA's 109th anniversary.

- ACR 187 (Boerner Horvath, 2020) would have recognized the GSUSA's 108th anniversary. (Died in Senate Rules Committee)

FISCAL EFFECT: Appropriation: No Fiscal Com.: No Local: No

SUPPORT: (Verified 3/21/22)

None received

OPPOSITION: (Verified 3/21/22)

None received

ASSEMBLY FLOOR: 68-0, 3/14/22
AYES: Aguiar-Curry, Arambula, Bauer-Kahan, Bennett, Bigelow, Bloom, Boerner Horvath, Mia Bonta, Bryan, Calderon, Carrillo, Cervantes, Chen, Choi, Cooley, Cooper, Cunningham, Megan Dahle, Daly, Davies, Mike Fong, Fong, Friedman, Gabriel, Gallagher, Eduardo Garcia, Gipson, Grayson, Holden, Irwin, Jones-Sawyer, Kalra, Kiley, Lackey, Lee, Low, Maienschein, Mathis, Mayes, McCarty, Medina, Mullin, Muratsuchi, Nazarian, Nguyen, O'Donnell, Patterson, Petrie-Norris, Quirk-Silva, Ramos, Reyes, Luz Rivas, Robert Rivas, Rodriguez, Blanca Rubio, Santiago, Smith, Stone, Ting, Valladares, Villapudua, Voepel, Waldron, Ward, Akilah Weber, Wicks, Wood, Rendon
NO VOTE RECORDED: Berman, Flora, Cristina Garcia, Gray, Levine, Quirk, Salas, Seyarto

Prepared by: Melissa Ward / SFA / (916) 651-1520
3/23/22 15:13:27

****** END ******

Office of Senate Floor Analyses
(916) 651-1520 Fax: (916) 327-4478

THIRD READING

Bill No: ACR 149
Author: Rodriguez (D), et al.
Introduced: 2/22/22
Vote: 21

ASSEMBLY FLOOR: 68-0, 3/14/22 (Consent) - See last page for vote

SUBJECT: American Red Cross Month

SOURCE: American Red Cross

DIGEST: This resolution proclaims March 2022 as American Red Cross Month and dedicates it to all those who continue to advance the noble legacy of the organization's founder. This resolution encourages all Californians to reach out, support the organization's humanitarian mission, and join in their commitment to care for people in need.

ANALYSIS: This resolution makes the following legislative findings:

1) March is American Red Cross Month, a special time to honor the kindness of our neighbors who aid families in need every day in California, across the United States, and around the world. Their dedication touches millions of lives each year as they carry out the organization's 140-year-old mission of preventing and alleviating suffering.

2) Day after day, we are witnessing and responding to devastating and dramatic disasters exacerbated by climate change. Wildfires are relentless, storms are intensifying, and floods are escalating. The climate crisis is not ahead of us; it is here. Climate change affects vulnerable populations disproportionately, which increases the need for American Red Cross support, their Environmental, Social, and Governance (ESG) programs, and their framework for climate change action focused on resilience, education, and sustainability.

3) Here in California, local families have relied on American Red Cross volunteers for comfort and hope while coping with over 3,000 local disasters. Last year,

over 25,000 California volunteers assisted with small and large disasters, such as the devastating wildfires. Volunteers also helped over 5,000 people affected by home fires in the state by addressing their urgent needs, including food, lodging, and recovery support.

4) Every two seconds, someone in the United States needs blood. Nationwide, the American Red Cross provides 40 percent of the country's blood supply. In California, the American Red Cross collects over 330,000 units of red blood cells each year. In addition, over 130,000 units of platelets are collected each year to help treat trauma and cancer patients. Blood products are also essential for surgeries and chronic illnesses.

This resolution:

1) Proclaims the month of March 2022 as American Red Cross Month and dedicates it to all those who continue to advance Clara Barton's noble legacy.

2) Encourages all Californians to reach out, support the organization's humanitarian mission, and join in their commitment to care for people in need.

Related/Prior Legislation

ACR 48 (Rodriguez, Resolution Chapter 26, Statutes of 2021) proclaimed March 2021 as American Red Cross Month.

ACR 38 (Cooley, 2014) would have recognized the month of March 2014 as American Red Cross Month in California. The resolution died in the Assembly Rules Committee.

FISCAL EFFECT: Appropriation: No Fiscal Com.: No Local: No

SUPPORT: (Verified 3/22/22)

American Red Cross (source)

OPPOSITION: (Verified 3/22/22)

None received

ASSEMBLY FLOOR: 68-0, 3/14/22
AYES: Aguiar-Curry, Arambula, Bauer-Kahan, Bennett, Bigelow, Bloom, Boerner Horvath, Mia Bonta, Bryan, Calderon, Carrillo, Cervantes, Chen, Choi, Cooley, Cooper, Cunningham, Megan Dahle, Daly, Davies, Mike Fong, Fong,

Friedman, Gabriel, Gallagher, Eduardo Garcia, Gipson, Grayson, Holden, Irwin, Jones-Sawyer, Kalra, Kiley, Lackey, Lee, Low, Maienschein, Mathis, Mayes, McCarty, Medina, Mullin, Muratsuchi, Nazarian, Nguyen, O'Donnell, Patterson, Petrie-Norris, Quirk-Silva, Ramos, Reyes, Luz Rivas, Robert Rivas, Rodriguez, Blanca Rubio, Santiago, Smith, Stone, Ting, Valladares, Villapudua, Voepel, Waldron, Ward, Akilah Weber, Wicks, Wood, Rendon

NO VOTE RECORDED: Berman, Flora, Cristina Garcia, Gray, Levine, Quirk, Salas, Seyarto

Prepared by: Karen Chow / SFA / (916) 651-1520
3/23/22 15:13:27

****** END ******

SENATE RULES COMMITTEE ACR 150
Office of Senate Floor Analyses
(916) 651-1520 Fax: (916) 327-4478

THIRD READING

Bill No: ACR 150
Author: Nazarian (D), et al.
Introduced: 2/22/22
Vote: 21

ASSEMBLY FLOOR: Read and adopted, 3/21/22

SUBJECT: Persian New Year

SOURCE: Author

DIGEST: This resolution celebrates Monday, March 21, 2022, as the beginning of the Persian New Year and extends best wishes for a peaceful and prosperous Nowrūz to all Californians.

ANALYSIS: This resolution makes the following legislative findings:

1) Nowrūz is a combination of two Persian words: the first, "now," means new, and the second, "ruz," means day. Together they mean "new day," which commemorates the new year for many Persian and Central Asian communities all over the world. It is celebrated on the exact day of the astronomical Northward equinox, which occurs on March 20 or the following day where it is observed.

2) The "new day" symbolizes a commitment to springtime renewal, peace, and overall solidarity between generations, families, and communities.

3) Nowrūz's most notable festivities include the creation of the Haft-Sin table, which is an arrangement of seven symbolic items starting with "S" in Persian. This table often includes sumac (crushed spice or berries), senjed (sweet dry fruit of lotus trees), serkeh (vinegar), and seeb (apples), which each represent various hopes for the new year, including health, wealth, and prosperity. Additionally, a wisdom book is often included in the form of a Koran or Bible. These festivities last over 13 days and begin on the eve of the first Wednesday of the year.

4) While Nowrūz is celebrated and observed principally in Iran, the traditions of Nowrūz are strong among people in Afghanistan, Iraq, Tajikistan, Uzbekistan, Azerbaijan, India, Pakistan, Turkey, Canada, and the United States.

5) According to the National Organization for Civil Registration, the United States has the highest number of Iranians outside of Iran, close to one million people, with over one-half residing in California. Most Iranian Americans reside in the greater Los Angeles area, which has been affectionately referred to as "Tehrangeles" or "Little Persia" among Iranian Americans.

6) The United Nations General Assembly proclaimed International Nowrūz Day in 2010 at the enterprise of several countries that uphold this global tradition, and the first global Nowrūz festival, held the same year, serves to remind us of the many noteworthy and lasting contributions of Persian culture to the ever-growing social and economic tapestry of our country. After thousands of years in the making, Nowrūz remains beloved, universal, and deeply embedded in Persian culture.

This resolution celebrates Monday, March 21, 2022, as the beginning of the Persian New Year and extends best wishes for a peaceful and prosperous Nowrūz to all Californians.

Comments

According to the author,

> This resolution proclaims the traditional Persian New Year beginning on the vernal equinox and celebrates the first day of spring as Nowruz. In doing so, this 3,000 year-old tradition continues to extend its hope for peace, solidarity, and new beginnings for all Californians. It gives all of us – regardless of ethnic, cultural, religious, or economic background – an opportunity to celebrate and move forward with hope for a prosperous new year. The day's focus on reconciliation and neighborliness contribute to cultural inclusiveness and cooperation among people from different communities. This message of celebration and hope is especially important at a time fraught with anti-immigrant sentiment. ACR 150 celebrates new beginnings, rebirth and new life.

FISCAL EFFECT: Appropriation: No Fiscal Com.: No Local: No

SUPPORT: (Verified 3/29/22)

None received

OPPOSITION: (Verified 3/29/22)

None received

Prepared by: Jonas Austin / SFA / (916) 651-1520
3/30/22 15:28:20

****** END ******

SENATE RULES COMMITTEE ACR 155
Office of Senate Floor Analyses
(916) 651-1520 Fax: (916) 327-4478

THIRD READING

Bill No: ACR 155
Author: Aguiar-Curry (D), et al.
Introduced: 3/3/22
Vote: 21

ASSEMBLY FLOOR: Read and adopted, 3/14/22

SUBJECT: Family Physician Week

SOURCE: Author

DIGEST: This resolution designates the week of March 13, 2022, to March 19, 2022, inclusive, as Family Physician Week.

ANALYSIS: This resolution makes the following legislative findings:

1) California family physicians have historically demonstrated their dedication to the health and well-being of Californians by emphasizing coordinated care, better health outcomes and patient experience, and health equity.

2) Family physicians have studied for a minimum of seven years from medical school through residency and have received specialized training to provide preventive and primary care medical treatment for the people of our state from birth to end of life.

3) Family physician care is based on knowledge of the whole person in the context of the family and the community and is not limited by age, sex, or type of health condition, and their broad skill set is particularly valuable in communities or geographical areas where certain specialists and subspecialists may not be available.

4) California family physicians provide high-quality care and reduce costs to the health care system through leadership, collaboration, and innovation, and studies have shown that every $1 increase in primary care expenditures resulted in $13 in savings in other services, such as specialty care, emergency department visits, and in-patient care.

5) During the current COVID-19 pandemic, family physicians have worked on the front lines to provide testing, vaccinations, and critical care to patients ensuring their health, safety, and well-being.

6) The California Academy of Family Physicians is a physician organization with more than 10,000 family physicians, residents, and medical students dedicated to promoting the highest standards of the profession of family medicine, fostering excellence through continuing medical education, and serving as an advocate for family physicians and their patients.

This resolution designates the week of March 13, 2022, to March 19, 2022, inclusive, as Family Physician Week.

Comments

According to the author,

> Family physicians have been at the fore front of this pandemic. From providing vaccines and critical care to COVID-19 patients, they have ensured the health, safety, and wellbeing of numerous patients and have demonstrated time and time again the importance of high quality care.

FISCAL EFFECT: Appropriation: No Fiscal Com.: No Local: No

SUPPORT: (Verified 3/21/22)

None received

OPPOSITION: (Verified 3/21/22)

None received

Prepared by: Jonas Austin / SFA / (916) 651-1520
3/23/22 15:13:28

****** END ******

SENATE RULES COMMITTEE ACR 156
Office of Senate Floor Analyses
(916) 651-1520 Fax: (916) 327-4478

THIRD READING

Bill No: ACR 156
Author: Mullin (D), et al.
Introduced: 3/7/22
Vote: 21

ASSEMBLY FLOOR: Read and adopted, 3/14/22

SUBJECT: Irish American Heritage Month

SOURCE: Author

DIGEST: This resolution designates March 2022 as Irish American Heritage Month in honor of the multitude of contributions that Irish Americans have made to the country and state.

ANALYSIS: This resolution makes the following legislative findings:

1) The democratic expression of the people of Ireland's will in 1918 led directly to the establishment of an independent state and enabled the people of Ireland to enjoy the freedom they have today. On January 21, 1919, the first meeting of the unicameral parliament of the revolutionary Irish Republic, known as the First Dáil Éireann, met in Dublin's Mansion House to declare Ireland to be an independent nation and to establish its alternative parliament. The First Dáil produced a Declaration of Independence and a Message to the Free Nations of the World.

2) The United States recognized and established diplomatic relations with the Irish Free State in 1924.

3) On April 10, 1998, the Government of Ireland and the Government of the United Kingdom signed the Good Friday Agreement, also known as the "Belfast Agreement", with the goals of bringing a new era of devolved government and democracy to Northern Ireland, ending violence, and ensuring peace for the people on the island of Ireland. The successful negotiation of the

Good Friday Agreement stands as a historic and groundbreaking success that has proven critical to the decades of relative peace that have followed.

4) Millions of Irish people, faced with severe hardship due to famine and poverty in their nation, immigrated to the United States over the last several centuries in search of a more promising future for themselves and their families.

5) The journey to America from the Emerald Isle was not paved with gold. The Irish spirit of determination, perseverance, and grit prevailed against dangerous seas and deadly conditions with their hearts set on the horizon.

6) Irish Americans initially suffered prejudice and discrimination upon first arriving in the United States. As the years went on, Irish Americans became deeply integrated in their communities and made numerous contributions in all aspects of American society and culture.

7) Irish Americans played vital roles in the development of the United States. Nine Irish Americans were signers of the Declaration of Independence, and 22 Presidents of the United States have been of Irish heritage.

8) Today, over 35,000,000 Americans claim Irish heritage, and they continue to contribute to the politics, economy, and of the United States and California.

This resolution designates March 2022 as Irish American Heritage Month in honor of the multitude of contributions that Irish Americans have made to the country and state.

Related/Prior Legislation

The following are the most recent measures relating to Irish American Heritage Month:

- ACR 43 (Mullin, Resolution Chapter 19, Statutes of 2021).
- ACR 183 (Mullin, 2020) – died in Senate Rules Committee.
- ACR 34 (Mullin, Resolution Chapter 27, Statutes of 2019).

Comments

The author states, "This resolution, in honor of the multitude of contributions that Irish Americans have made to make this a better country and state for all people, designates March 2022 to be Irish American Heritage Month in California, and calls upon the people of the state to observe the month of March with appropriate

ceremonies, programs, and activities, especially on March 17, since everyone is Irish on St. Patrick's Day."

FISCAL EFFECT: Appropriation: No Fiscal Com.: No Local: No

SUPPORT: (Verified 3/21/22)

None received

OPPOSITION: (Verified 3/21/22)

None received

Prepared by: Melissa Ward / SFA / (916) 651-1520
3/23/22 15:15:29

****** END ******

SENATE RULES COMMITTEE ACR 160
Office of Senate Floor Analyses
(916) 651-1520 Fax: (916) 327-4478

THIRD READING

Bill No: ACR 160
Author: Mathis (R), Grayson (D), et al.
Introduced: 3/14/22
Vote: 21

ASSEMBLY FLOOR: Read and adopted, 3/21/22

SUBJECT: California Down Syndrome Awareness Week and Day

SOURCE: Author

DIGEST: This resolution proclaims March 20, 2022, to March 26, 2022, as California Down Syndrome Awareness Week and March 21, 2022, as California Down Syndrome Day, and encourages all Californians to support and participate in related activities.

ANALYSIS: This resolution makes the following legislative findings:

1) Down syndrome is a chromosomal disorder that occurs in one out of every 700 to 1,000 births. Down syndrome causes delays in physical and intellectual development and is the most common cause of intellectual disabilities. It can also cause additional medical problems, including, but not limited to, heart defects, hearing problems, vision impairment, upper respiratory infections, and intestinal and thyroid problems.

2) Adequate access to health care, early intervention programs, and inclusive education, as well as appropriate research, are vital to the growth and development of individuals with Down syndrome.

3) The inherent dignity and worth of persons with Down syndrome, their valuable contributions as promoters of well-being and diversity of their communities, and the importance of their individual autonomy and independence, including the freedom to make their own choices, should be recognized.

4) The National Buddy Walk Program helps raise awareness and funds for programs that benefit people with Down syndrome and their families, and the

Special Olympics raises awareness and allows individuals with Down syndrome and other intellectual disabilities to discover new strengths and abilities, skills, and success.

5) In 2011, the United Nations General Assembly declared March 21 as World Down Syndrome Day, to be observed every year beginning in 2012, and invited all to observe World Down Syndrome Day in order to raise public awareness of Down syndrome.

6) The 21st day of the third month was selected to signify the uniqueness of the triplication of the 21st chromosome that causes Down syndrome.

This resolution proclaims March 20, 2022, to March 26, 2022, as California Down Syndrome Awareness Week, and March 21, 2022, as California Down Syndrome Day; and encourages all Californians to support and participate in related activities.

Related/Prior Legislation

The following are the most recent measures relating to California Down Syndrome Awareness Week and Day:

- ACR 182 (Lackey, 2020) – died in Senate Rules Committee.
- ACR 53 (Grayson, Resolution Chapter 45, Statutes of 2019).

FISCAL EFFECT: Appropriation: No Fiscal Com.: No Local: No

SUPPORT: (Verified 3/29/22)

Association of Regional Center Agencies

OPPOSITION: (Verified 3/29/22)

None received

ARGUMENTS IN SUPPORT: According to the author, "As a parent whose child is a part of the IDD [intellectual and developmental disabilities] community, I know firsthand the many challenges facing those with Down Syndrome, and it is crucial that the legislature recognizes these challenges, acknowledges the participation of individuals with Down syndrome in society, and helps them fulfill their personal potential."

Prepared by: Melissa Ward / SFA / (916) 651-1520
3/30/22 15:10:48

****** END ******

SENATE RULES COMMITTEE AJR 22
Office of Senate Floor Analyses
(916) 651-1520 Fax: (916) 327-4478

THIRD READING

Bill No: AJR 22
Author: Gabriel (D), et al.
Introduced: 1/5/22
Vote: 21

SENATE PUBLIC SAFETY COMMITTEE: 4-0, 3/8/22
AYES: Bradford, Kamlager, Skinner, Wiener
NO VOTE RECORDED: Ochoa Bogh

ASSEMBLY FLOOR: 54-2, 1/10/22 - See last page for vote

SUBJECT: Select Committee to Investigate the January 6th Attack on the United States Capitol

SOURCE: Author

DIGEST: This resolution urges the United States House Select Committee to Investigate the January 6th Attack on the United States Capitol to uncover the facts, circumstances, and causes relating to the attack, and honors the individuals who died or were injured as a result of the attack.

ANALYSIS:

Existing law:

1) States that each state shall appoint electors pursuant to a process prescribed by the state's legislature to elect the President and Vice President of the United States. (U.S. Const., Art. II, Sec. 1)

2) States that electors shall sign and certify a list of the persons voted for and the number of votes for each, and transmit the list to the President of the Senate, who shall, in the presence of the U.S. Senate and House of Representatives, open the certificates and count the votes. (U.S. Const., Art II, Sec. 1; 12th Amend.)

3) States that the United States Congress may determine the time of choosing the electors, and the day on which they shall give their votes, which shall be the same throughout the country. (U.S. Const., Art II, Sec. 1)

4) Requires that the electors of each state forward, in a timely manner via registered mail, their lists and certificates to the President of the Senate. (3 U.S.C. §11)

5) Requires that Congress be in session on the sixth day of January succeeding every meeting of the electors, and that the Senate and the House of Representatives shall meet in the Hall of the House of Representatives at 1pm that day. (3 U.S.C. §15)

6) Requires that each house appoint two "tellers," who shall open and present, in alphabetical order by state, the certificates of the electors to the assembled members of the House and Senate. (3 U.S.C. §15)

7) Provides that upon the reading of the votes of each state, a tally of the results of each state shall be presented to the President of the Senate, who shall thereupon announce the state of the vote, which announcement shall be deemed a sufficient declaration of the persons elected President and Vice President of the United States. (3 U.S.C. §15)

8) Provides that subsequent to the announcement of results by the President of the Senate, the President of the Senate shall call for objections, which must be made in writing, and signed by at least one Senator and one member of the House of Representatives. (3 U.S.C. §15)

9) Provides that when all objections have been received and read, those objections shall be submitted to each house of the legislature for their independent decisions. (3 U.S.C. §15)

10) Requires that no electoral vote or votes from any state which were regularly given by lawfully certified electors may be rejected, but that the House and Senate may concurrently may reject the vote or votes when they agree that such vote or votes have not been given by lawfully certified electors. (3 U.S.C. §15)

11) Provides that when the two houses separate to decide upon an objection, each Senator and Representative may speak to such objection for five minutes, and not more than once, but after such debate has lasted two hours, it is the duty of the presiding officer of each house to put the main questions without further debate. (3 U.S.C. §17)

This resolution:

1) Finds that President Donald J. Trump's actions incited a violent insurrection that attempted to prevent the peaceful transfer of power at the United States Congress on January 6, 2021.

2) Finds that the insurrection was a horrific assault on our democracy as established by the Constitution of the United States.

3) Finds that the insurrection resulted in multiple deaths, physical harm to over 140 members of law enforcement, and terror and trauma among staff, institutional employees, press, and Members of the United States Congress.

4) Finds that the United States Congress has established a bipartisan Select Committee to Investigate the January 6th Attack on the United States Capitol.

5) Resolves that the Legislature urge the Select Committee to Investigate the January 6th Attack on the United States Capitol to uncover the facts, circumstances, and causes relating to the domestic terrorist attack on the United States Capitol on January 6, 2021.

6) Resolves that the Legislature condemns the insurrection and assault on our democracy on January 6, 2021.

7) Resolves that the Legislature recognizes the courage, bravery, and sacrifice of those who were injured and killed trying to protect the United States Capitol and honors those individuals on the first anniversary of the insurrection.

8) Resolves that the Legislature rejects all forms of political violence.

9) Resolves that the members of the Legislature reaffirm their duty to support and defend the Constitution of the United States.

Comments

The author states:

> We would be remiss not to condemn the violent, treasonous insurrection at the United States Capitol that occurred a year ago. This was the beginning of a sustained attack on democracy. Since the riot, countless state legislatures have fought to roll back voting rights, elected leaders have refused to acknowledge the legitimacy of our fair and free elections while others continue promoting conspiracy theories and misinformation that weakens our faith in government. In the State of California we need to be a model of democracy where political

violence, voter suppression and lies misinformation is not tolerated. AJR 22 serves as a reminder for how fragile our democracy is and it must be protected. I introduced this resolution because I believe people of all political ideologies need to be on the record recognizing our democratic electoral process as a sacred institution and unequivocally opposing efforts to harm our democracy. This resolution is to honor the law enforcement officers who heroically protected the Capitol that day. We recognize the courage, bravery, and sacrifice of those who were injured and killed trying to protect the United States Capitol and honors those individuals on the first anniversary of the insurrection.

FISCAL EFFECT: Appropriation: No Fiscal Com.: No Local: No

SUPPORT: (Verified 3/8/22)

None received

OPPOSITION: (Verified 3/8/22)

None received

ASSEMBLY FLOOR: 54-2, 1/10/22
AYES: Aguiar-Curry, Arambula, Bauer-Kahan, Bennett, Berman, Bloom, Boerner Horvath, Mia Bonta, Bryan, Burke, Calderon, Carrillo, Cervantes, Cooley, Cooper, Daly, Gabriel, Cristina Garcia, Eduardo Garcia, Gipson, Gray, Grayson, Irwin, Jones-Sawyer, Kalra, Lee, Levine, Low, Maienschein, McCarty, Medina, Mullin, Muratsuchi, Nazarian, O'Donnell, Petrie-Norris, Quirk, Quirk-Silva, Ramos, Reyes, Luz Rivas, Robert Rivas, Rodriguez, Blanca Rubio, Salas, Santiago, Stone, Valladares, Villapudua, Ward, Akilah Weber, Wicks, Wood, Rendon
NOES: Smith, Waldron
NO VOTE RECORDED: Bigelow, Chen, Choi, Cunningham, Megan Dahle, Davies, Flora, Fong, Friedman, Gallagher, Holden, Kiley, Lackey, Mathis, Mayes, Nguyen, Patterson, Seyarto, Ting, Voepel

Prepared by: Alex Barnett / PUB. S. /
3/9/22 15:10:33

****** END ******