
THIRD READING

Bill No: AB 1087
Author: Patterson (R)
Amended: 4/28/25 in Assembly
Vote: 21

SENATE PUBLIC SAFETY COMMITTEE: 6-0, 7/8/25
AYES: Arreguín, Seyarto, Caballero, Gonzalez, Pérez, Wiener

SENATE APPROPRIATIONS COMMITTEE: 7-0, 8/29/25
AYES: Caballero, Seyarto, Cabaldon, Dahle, Grayson, Richardson, Wahab

ASSEMBLY FLOOR: 78-0, 6/5/25 - See last page for vote

SUBJECT: Crimes: vehicular manslaughter while intoxicated

SOURCE: Author

DIGEST: This bill increases the term of probation from two years to three to five years for a person convicted of vehicular manslaughter while intoxicated or gross vehicular manslaughter while intoxicated.

ANALYSIS:

Existing law:

- 1) Provides that gross vehicular manslaughter while intoxicated is the unlawful killing of a human being without malice aforethought, in the driving of a vehicle, where the driving was under the influence of alcohol or drugs, as specified, with gross negligence. (Penal (Pen.) Code, § 191.5, subd. (a).)
- 2) Provides that gross vehicular manslaughter while intoxicated is a felony, punishable by imprisonment in the state prison for four, six, or 10 years. (Pen. Code, § 191.5, subd. (c)(1).)
- 3) Provides that a person convicted of gross vehicular manslaughter while intoxicated, who has one or more prior specified convictions, shall be punished

by imprisonment in the state prison for a term of 15 years to life. (Pen. Code, § 191.5, subd. (d).)

- 4) Provides that vehicular manslaughter while intoxicated is the unlawful killing of a human being without malice aforethought, in the driving of a vehicle, where the driving was under the influence of alcohol or drugs, as specified, but without gross negligence. (Pen. Code, § 191.5, subd. (b).)
- 5) Provides that vehicular manslaughter while intoxicated is punishable as a misdemeanor by imprisonment in a county jail for not more than one year or as a felony by imprisonment in the county jail for 16 months, two, or four years. (Pen. Code, § 191.5, subd. (c)(2).)
- 6) Provides generally for a period of probation not to exceed one year in misdemeanor cases and not exceeding two years in felony cases. (Pen. Code, §§ 1203a & 1203.1, subd. (a).)
- 7) Requires, if any person is convicted of driving under the influence (DUI), as specified, and is granted probation, the period of probation to be for a term as follows:
 - a) For a period of between three and five years; or,
 - b) If the maximum sentence for the offense exceeds five years, for a period of probation for a longer period than three years but not exceeding the maximum time for which sentence imprisonment may be pronounced. (Vehicle (Veh.) Code, § 23600, subd. (b)(1).)

This bill provides for a period of probation of between three and five years for vehicular manslaughter while intoxicated and gross vehicular manslaughter while intoxicated.

Comments

Vehicular Manslaughter While Intoxicated and Gross Vehicular Manslaughter While Intoxicated. Manslaughter is the unlawful killing of a human being without malice. (Pen. Code, §§ 191.5 & 192.) The difference between vehicular manslaughter while intoxicated and gross vehicular manslaughter while intoxicated is the degree of negligence required. Vehicular manslaughter while intoxicated only requires ordinary negligence, which is the failure to use reasonable care to prevent reasonably foreseeable harm to oneself or someone else. A person is negligent if they do something that a reasonably careful person would not do in the same situation. (Pen. Code, § 7; see also CALCRIM No. 591 [Vehicular

Manslaughter While Intoxicated].) On the other hand, gross vehicular manslaughter while intoxicated requires a person to act in a reckless way that creates a high risk of death or great bodily injury. In other words, a person acts with gross negligence when they disregard human life. (*People v. Penny* (1955) 44 Cal.2d 861; see also CALCRIM NO. 590 [Gross Vehicular Manslaughter While Intoxicated].)

Probation Terms. Probation is the suspension of a custodial sentence and a conditional release of a defendant into the community. Probation can be “formal” or “informal.” “Formal” probation is under the direction and supervision of a probation officer. As a general proposition, the level of probation supervision will be linked to the level of risk the probationer presents to the community.

Defendants convicted of misdemeanors, and most felonies, are eligible for probation based on the discretion of the court. When considering the imposition of probation, the court evaluates the safety of the public, the nature of the offense, the interests of justice, the loss to the victim, and the needs of the defendant. (Pen. Code, § 1202.7.) The court also has broad discretion to impose conditions that foster the defendant’s rehabilitation and protect public safety. (*People v. Carbajal* (1995) 10 Cal.4th 1114, 1120.) A valid condition must be reasonably related to the offense and aimed at deterring misconduct in the future. (*Id.* at p. 1121.)

Prior to 2021, when a defendant was convicted of a felony, the court could impose a term of probation for up to five years, or no longer than the prison term that can be imposed if the maximum prison term exceeds five years. (See former Pen. Code, § 1203.1.) In misdemeanor cases, the court could impose a term of probation for up to three years, or no longer than the maximum term of imprisonment if more than three years. (Former Pen. Code, § 1203a.) AB 1950 (Kamlager), Chapter 328, Statutes of 2020, limited probation to two years for a felony and one year for a misdemeanor, except for “an offense that includes specific probation lengths within its provisions.” (Pen. Code, § 1203.1, subd. (1)(1).)

Existing law provides for a period of between three and five years of probation for any person convicted of DUI. (Veh. Code, § 23600, subd. (b)(1).) However, if the maximum sentence for the offense exceeds five years, the period of probation may be for a longer period than three years but may not exceed the maximum time for which imprisonment may be pronounced. (*Ibid.*) DUI is a lesser included offense of both vehicular manslaughter and gross vehicular manslaughter. However, there is no specified probation term for the latter crimes. As such, despite being more serious crimes than DUI, the maximum term of probation for both vehicular

manslaughter and gross vehicular manslaughter is two years. (See *Bowden v. Superior Court* (2022) 82 Cal.App.5th 735, 745.)

This bill increases the period of probation for vehicular manslaughter while intoxicated and gross vehicular manslaughter while intoxicated from a term of two years to a term of three to five years.

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

According to the Senate Appropriations Committee:

Fiscal Impact:

- Unknown, potentially significant workload costs (local funds, General Fund) to county probation departments. In each criminal case, county probation departments conduct investigations to provide presentencing reports to the courts after a conviction, supervise people in the community to ensure they comply with the terms of their supervision, and refer people to programs intended to help them avoid committing new crimes and improve their lives. This bill could create additional workload and costs pressures for probation departments to supervise people on probation for longer periods. Actual supervision costs will vary by each county probation department and how many individuals sentenced to probation. It is not clear whether the county probation duties imposed by this bill constitute a reimbursable state mandate or whether they may be subject to Proposition 30 (2012). Proposition 30 provides that legislation enacted after September 30, 2012, that has an overall effect of increasing the costs already borne by a local agency for programs or levels of service mandated by realignment applies to local agencies only to the extent the state provides annual funding for the cost increase.
- Unknown, potentially significant costs (local funds, General Fund) to the counties to incarcerate people who violate probation. The average annual cost to incarcerate one person in county jail varies by county, but likely ranges from \$70,000 to \$90,000 per year. For example, in 2021, Los Angeles County budgeted \$1.3 billion for jail spending, including \$89,580 per incarcerated person. Actual incarceration costs to counties will depend on the number of convictions and the length of each sentence. Generally, county incarceration costs are not reimbursable state mandates pursuant to Proposition 30 (2012).

SUPPORT: (Verified 8/29/25)

Arcadia Police Officers' Association
Brea Police Association
Burbank Police Officers' Association
California Association of School Police Chiefs
California Coalition of School Safety Professionals
California District Attorneys Association
California Narcotic Officers' Association
California Police Chiefs Association
California Reserve Peace Officers Association
Claremont Police Officers Association
Corona Police Officers Association
Culver City Police Officers' Association
Fullerton Police Officers' Association
Los Angeles School Police Management Association
Los Angeles School Police Officers Association
Murrieta Police Officers' Association
Newport Beach Police Association
Palos Verdes Police Officers Association
Placer County Deputy Sheriffs' Association
Pomona Police Officers' Association
Riverside Police Officers Association
Riverside Sheriffs' Association

OPPOSITION: (Verified 8/29/25)

California District Attorneys Association
California Police Chiefs Association
Placer County District Attorney's Office
Streets for All

ARGUMENTS IN SUPPORT:

According to the California Police Chiefs Association:

Current law is that if a person is convicted of unlawfully killing a human being without malice aforethought while driving under the influence, and is granted probation, the probation period is limited to one year for a misdemeanor conviction and two years for a felony conviction. AB 1087 would align the probation period for these convictions with that of standard driving under the influence offenses, which ranges from three to five years, unless the maximum prison

sentence for the offense exceeds five years, in which case the probation period may be extended.

There is a significant problem with the current laws, as someone charged with a DUI Misdemeanor or DUI Felony has a longer probation term than someone who commits vehicular manslaughter while intoxicated. These types of fatalities are preventable, which is why we need to expand probation terms to allow for more treatment in order for a person to re-enter the community. By increasing the probation duration, AB 1087 would hold offenders accountable for a longer period, providing more opportunities for rehabilitation and monitoring to prevent further offenses.

ASSEMBLY FLOOR: 78-0, 6/5/25

AYES: Addis, Aguiar-Curry, Ahrens, Alanis, Alvarez, Arambula, Ávila Farías, Bains, Bauer-Kahan, Bennett, Berman, Boerner, Bonta, Bryan, Calderon, Caloza, Carrillo, Castillo, Chen, Connolly, Davies, DeMaio, Dixon, Elhawary, Ellis, Flora, Fong, Gabriel, Gallagher, Garcia, Gipson, Jeff Gonzalez, Mark González, Hadwick, Haney, Harabedian, Hart, Hoover, Irwin, Jackson, Kalra, Krell, Lackey, Lee, Lowenthal, Macedo, McKinnor, Muratsuchi, Nguyen, Pacheco, Papan, Patel, Patterson, Pellerin, Petrie-Norris, Quirk-Silva, Ramos, Ransom, Celeste Rodriguez, Michelle Rodriguez, Rogers, Blanca Rubio, Sanchez, Schiavo, Schultz, Sharp-Collins, Solache, Soria, Stefani, Ta, Tangipa, Valencia, Wallis, Ward, Wicks, Wilson, Zbur, Rivas

NO VOTE RECORDED: Ortega

Prepared by: Cheryl Anderson / PUB. S. /
8/30/25 13:32:14

**** END ****