

Date of Hearing: March 23, 2026

ASSEMBLY COMMITTEE ON TRANSPORTATION

Lori D. Wilson, Chair

AB 1662 (Wilson) – As Introduced January 29, 2026

**SUBJECT:** Driving record: points: misdemeanor diversion

**SUMMARY:** Provides that if a court dismisses a defendant's case because the defendant completes court-initiated misdemeanor diversion, and the case includes a specified violation, which, ordinarily, requires points to be added to the defendant's driving record, then the court shall nonetheless transmit that information to the Department of Motor Vehicles (DMV), and the DMV shall assess points on the defendant's driving record.

**EXISTING LAW:**

- 1) Authorizes the DMV to suspend, revoke, or refuse to issue a driver's license if a person accumulates a certain number of points on their driving record, as follows:
  - a) Provides that a person whose driving record shows a violation point count of four or more points in 12 months, six or more points in 24 months, or eight or more points in 36 months shall be prima facie presumed to be a negligent operator of a motor vehicle, except as otherwise specified. (Vehicle Code Section (VEH) 12810.5)
  - b) Requires the DMV, in making a negligent operator determination, to give due consideration to the amount of use or mileage traveled in the operation of a vehicle if the person requests and appears at a DMV hearing. (VEH 12810.5)
  - c) Authorizes the DMV to require a negligent operator whose driving privilege is suspended or revoked to submit proof of financial responsibility, as specified. (VEH 12810.5)
  - d) Authorizes the DMV to suspend or revoke the privilege of any person to operate a vehicle upon any grounds that authorizes the refusal to issue a license, including when a person is deemed a negligent operator. (VEH 13359, 12809)
  - e) Authorizes the DMV to refuse to issue or renew a driver's license if the DMV determines the applicant is a negligent or incompetent operator of a vehicle. (VEH 12809)
  - f) Provides that whenever the DMV has discretionary authority to suspend or revoke the privilege of a person to operate a vehicle, the DMV may in lieu of suspension or revocation, place the person on probation, as specified, and issue a restricted driver's license as a condition of probation where that person is presumed to be a negligent operator. (VEH 14250, 12812)
  - g) Provides that the point count, for purposes of determining if a driver is a negligent operator, is determined as follows:
    - i) Violations that receive one point:
      - (1) Any traffic conviction involving the safe operation of a vehicle upon the highway, except as specified. (VEH 12810)
      - (2) A traffic accident in which the DMV deems the operator responsible. (VEH 12810)

- (3) A conviction for failing to properly secure a child under eight years old in a rear seat in an appropriate child passenger restraint system, as specified. (VEH 12810)
  - (4) A conviction for transporting a child between eight and 16 years old, without properly securing that child in an appropriate child passenger restraint system, as specified. (VEH 12810)
- ii) Convictions that receive two points:
- (1) A hit and run resulting in only property damage, or a hit and run resulting in injury or death to another person.
  - (2) Driving under the influence (DUI), DUI causing bodily injury to another, or driving a vehicle with a blood alcohol content (BAC) of .05 or more, for a person under the age of 21, even where a chemical test was not made to determine that person's BAC, as specified.
  - (3) Reckless driving.
  - (4) Intoxicated vehicular manslaughter, without gross negligence.
  - (5) Vehicular manslaughter, with or without gross negligence.
  - (6) Fleeing or attempting to elude a peace officer where the pursued vehicle is driven in willful or wanton disregard for the safety of persons or property, including where this offense causes serious bodily injury or death.
  - (7) Driving a vehicle upon a highway, except to the right of an intermittent barrier or dividing section which separates two or more lanes of opposing traffic.
  - (8) Driving a vehicle on a highway at a speed greater than 100 miles per hour.
  - (9) Engaging in a motor vehicle speed contest or exhibition of speed or aiding and abetting a motor vehicle exhibition of speed.
  - (10) Engaging in a motor vehicle speed contest that proximately causes specified injuries to another person.
  - (11) Driving on a highway for the purpose of transporting explosives, except as specified.
  - (12) Driving on a suspended or revoked license, driving on a license that was suspended or revoked due to a DUI, DUI causing bodily injury, reckless driving, or refusal or failure to complete a chemical test or alcohol screening test, or accumulating a driving record that results from driving when a person has a suspended or revoked license. (VEH 12810)
- iii) Provides that a conviction for only one violation arising from one occasion of arrest or citation shall be counted in determining the violation point count. (VEH 12810)

2) Establishes Court-Initiated Misdemeanor Diversion, as follows:

- a) Authorizes a judge in the superior court in which a misdemeanor is being prosecuted to, at the judge's discretion, and over the objection of a prosecuting attorney, offer diversion to a defendant. (Penal Code Section (PEN) 1001.95)
- b) Authorizes a judge to continue a diverted case for a period not to exceed 24 months and to order the defendant to comply with terms, conditions, or programs that the judge deems appropriate based on the defendant's specific situation. (PEN 1001.95)
- c) Requires the judge, if the defendant has complied with the imposed terms and conditions, to dismiss the action against the defendant at the end of the period of diversion. (PEN 1001.95)
- d) Requires the court, if it appears to the court that the defendant is not complying with the terms and conditions of diversion, after notice to the defendant, to hold a hearing to determine whether the criminal proceedings should be reinstated. (PEN 1001.95)
- e) Authorizes the court, if it finds that the defendant has not complied with the terms and conditions of diversion, to end the diversion and order resumption of the criminal proceedings. (PEN 1001.95)
- f) Provides that a defendant may not be offered diversion for any of the following current charged offenses:
  - i) Any offense for which a person, if convicted, would be required to register as a sex offender;
  - ii) Any offense involving domestic violence, as specified; and,
  - iii) Stalking. (PEN 1001.95)
- g) Requires a defendant who is diverted under court-initiated diversion to complete all of the following to have their action dismissed:
  - i) Complete all conditions ordered by the court.
  - ii) Make full restitution, although a defendant's inability to pay restitution due to indigence shall not be grounds for denial of diversion or a finding that the defendant has failed to comply with the terms of diversion.
  - iii) Comply with a court-ordered protective order, stay-away order, or order prohibiting firearm possession, if applicable. (PEN 1001.95)
- h) Provides that upon successful completion of the terms, conditions, or programs ordered by the court pursuant to court-initiated misdemeanor diversion, the arrest upon which diversion was imposed shall be deemed to have never occurred, and the defendant may indicate, in response to any question concerning their prior criminal record, that they were not arrested. (PEN 1001.95)
- i) Prohibits a record pertaining to an arrest resulting in successful completion of the terms, conditions, or programs ordered by the court from, without the defendant's consent, being used in any way that could result in the denial of any employment, benefit, license, or certificate. (PEN 1001.97)

- j) Requires the defendant to be advised that, regardless of their successful completion of diversion, the arrest upon which the diversion was based may be disclosed by the Department of Justice in response to a peace officer application request and that completion of diversion does not relieve them of the obligation to disclose the arrest in response to a direct question contained in a questionnaire or application for a position as a peace officer. (PEN 1001.97)

**FISCAL EFFECT:** Unknown

**COMMENTS:** In California, if you run a stop sign, you can receive a negligent operator point on your driver's license. If you run a stop sign and kill someone and go through the misdemeanor diversion program, no negligent operator points are assessed on your driving record.

According to the National Highway Traffic Safety Administration, 39,474 people died in traffic collisions in California between 2014 and 2023. 10,034 of those deaths were pedestrians, and 12,056 of those deaths were alcohol related. 4,270 of those deaths were drivers under the age of 21. In the United States, motor vehicle crashes account for 20% of all children's and adolescent deaths. In 2023, the primary crash factor in California was the influence of alcohol, followed by improper turns, failure to yield, speeding, and other violations.

Except for driving while using a cell phone, all moving violations are eligible for a negligent operator point for the first offense. Most offenses permit a person to take traffic violator school to avoid a point on their license if they have no prior offense on their record within the previous 18 months.

In addition to traffic fines, another method to encourage compliance with road rules includes assessing negligent operator points on a driver's license. The point system is used by DMV to determine if a driver should be considered a negligent operator. DMV may suspend or revoke a person's driving privilege for being a negligent operator. Negligent operator points are also used by insurance companies to assess a driver's risk. Drivers with two points on their license lose the "good driver" discount required by law and can have their insurance premiums increase by at least 20%.

An individual is considered a negligent operator if they receive four or more points in 12 months, six in 24 months, or eight in 36 months. In addition, a minor may receive a 30-day restriction on his or her license for two points in 12 months, or a suspension for three points in 12 months. Commercial drivers are allowed to receive two additional points; a violation received while using a commercial vehicle carries 1.5 times the point count normally assessed. Except for DUIs, points remain on record for a total of 36 months.

The DMV sends out a series of warning letters once a person gets close to a driver's license suspension because of negligent operator points. According to a DMV-commissioned report, *The Effectiveness of Theory Based Letters: An Evaluation of California's Negligent Operator Treatment System's Advisory Letters*, negligent operator points coupled with the warning letters have had a statistically significant reduction in traffic collisions. Level 1 warning letters, which are sent out when a person is two points away from having their license suspended, achieved a 4.62% reduction in crash-involved drivers. Level 2 warning letters, which are sent out when a person is one point away from a driver's license suspension, achieved an 8.04% reduction in crash-involved drivers.

Most driving offenses in the vehicle code are a single point. The two-point violations are generally misdemeanor offenses. Misdemeanor offenses, which are eligible for diversion, are distinct from most traffic offenses in the fact that most require a prosecutor to prove mens rea, or “a guilty mind.” For traffic infractions, prosecutors do not need to prove you knew you were speeding or knew you ran a stop sign. However, to be eligible for the jail time that comes with a misdemeanor offense, prosecutors must prove some sort of intent along with bad driving behavior.

Examples of two-point misdemeanor eligible offenses include reckless driving (driving with a willful and wanton disregard for human life), motor vehicle speed contests, motor vehicle exhibitions of speed (including sideshows and street takeovers), vehicular manslaughter (where a person violated a rule of the road and as a result killed someone but lacked the intent to kill them and was not intoxicated), fleeing from a police officer, hit and run causing only property damage, and driving on a suspended or revoked driver’s license. Unlike one-point offenses, two-point offenses are not eligible for traffic violator schools.

AB 3234 (Ting), Chapter 334, Statutes of 2020, created a court-initiated misdemeanor diversion program. Since then, all of the offenses above, except DUIs, have become eligible for misdemeanor diversion, allowing some of the more serious driving offenses to not appear on a person’s driving record, including ones that resulted in killing someone, while still placing points on their record for more minor offenses like failing to use a turn signal.

This bill would still permit a person to be eligible for misdemeanor diversion, while allowing the state and insurance companies to continue to assess their risks as a driver by keeping their driving offenses on their driving record.

*According to the author*, “When serious driving offenses disappear from the record, the public pays the price. AB 1662 closes a loophole that previously let individuals avoid points on their driving record if their case was dismissed through diversion. This bill ensures dangerous conduct is counted, not covered up.”

The California Police Chiefs Association, *writing in support of this bill*, argue “AB 1662 would ensure that traffic safety accountability is preserved when a misdemeanor diversion results in dismissal of a case involving a point-assessable driving offense.

“Under current law, drivers who successfully complete diversion under Penal Code Section 1001.95 may avoid a criminal conviction; however, dismissal of these cases can also result in the DMV not assessing violation points that are otherwise critical to maintaining accurate driver safety records. AB 1662 clarifies that when a court dismisses a qualifying misdemeanor following diversion, the DMV must still assess the applicable violation points.

“This measure strengthens California’s traffic safety framework by ensuring that serious driving conduct remains reflected in a driver’s official record for purposes of negligent operator determinations and license suspension. Without this clarification, diversion may unintentionally undermine the integrity of the state’s point system and weaken deterrence for repeat or dangerous drivers. Maintaining accurate driving histories is essential to protecting the public and preventing recidivism on California roadways.”

Western Center on Law and Poverty, *writing in opposition to this bill*, argues “If AB 1662 is passed, people who are charged with driving-related offenses and complete a diversion program would, nonetheless, be assessed points on their license, as though they were convicted. Western Center opposes AB 1662 because it punishes legally innocent people for a crime they were never convicted of.

“Diversion is an “exit ramp” to the criminal legal system – which “minimize[s] people’s exposure to the criminal legal system.” Pretrial diversion programs allow people charged with crimes to complete a rehabilitation program in lieu of prosecution. Upon successful completion of the program, the judge dismisses their case. Under California Penal Code section 1001.95, judges have the discretion to offer diversion to people charged with most misdemeanors. Diversion is a crucial criminal justice tool: it can clear court calendars and reduce jail and prison overcrowding. Diversion also advances public safety – research shows that diversion programs cut recidivism by half. Policies that weaken or remove these incentives to complete diversion programs undermine these benefits, harming people charged with crimes, straining an already overburdened criminal legal system, and diminishing public safety.

“Receiving points on a driving record can have devastating consequences to low-income Californians and their families, including increased costs of insurance and even the loss of a driver’s license. The loss of a driver’s license is a major threat to economic security, particularly for low-income Californians and their families.”

*Double referral:* This bill was first heard in Assembly Public Safety Committee. Please see the analysis of this bill from that committee for a fuller explanation of misdemeanor diversion and how it works.

*Committee comments:* DMV has raised with the committee challenges related to implementation of this bill, including how the offenses will be reported to the DMV when a conviction of the offense has not occurred. The author should continue to work with DMV to receive technical assistance on how to best implement this bill should it continue to move through the process. DMV already has a communication system established with courthouses across the state on reporting offenses to be included on a person’s driving record.

According to the Legislative Analyst's Office (LAO), the Motor Vehicle Account (MVA), the primary funding source for DMV, has been experiencing a structural imbalance for many years, with expenditures consistently outpacing revenues. The state has been able to delay the account’s insolvency through various budget adjustments, policy changes, and temporary transfers from other special funds. Several underlying causes of the MVA’s structural deficit remain unaddressed, and the account is projected to become insolvent from the 2028-29 budget year onward. Moreover, given the scale of the state’s projected budget shortfall in the coming years, relying on the General Fund or other special funds to help cover the MVA expenditure will be challenging. The LAO argues that every new expenditure from the account—especially those that are comparatively large—should be well justified and clear a high bar for approval.

In the Governor’s proposed 2026-2027 budget, the Governor warned that “the Budget currently projects that the MVA will be insolvent as soon as 2028-29. Given the ongoing fiscal constraints in the MVA, the Administration will continue to limit new workload or initiatives, including those with delayed implementation dates that would create additional cost pressures over time.”

*Related and Previous legislation:* AB 1685 (Lackey) would increase the number of points that must be added to a person's driving record for the crimes of intoxicated vehicular manslaughter without gross negligence and vehicular manslaughter. AB 1685 is pending a hearing in this Committee.

SB 953 (Niello) would require a violation for vehicular manslaughter to be given a value of two driving record points, even if the defendant's case is dismissed because they completed court-initiated misdemeanor diversion. SB 953 is pending a hearing in Senate Transportation.

AB 3234 (Ting), Chapter 334, Statutes of 2020, created a court-initiated misdemeanor diversion program.

AB 2519 (Maienschein), of the 2023-2024 Legislative Session, would have prohibited individuals diverted for a misdemeanor, for which there would be a 10-year prohibition on possessing a firearm if convicted, from possessing a firearm until they successfully complete diversion. AB 2519 was held in the Senate Appropriations Committee.

SB 1282 (Smallwood-Cuevas), of the 2023-2024 Legislative Session, would have authorized a county that opts to create a diversion or deferred entry of judgment program for theft offenses to have their program conducted by a county department providing pretrial or health care services or a nonprofit contract agency, and expanded the court-initiated misdemeanor diversion program to felonies, except those specified. SB 1282 failed passage on the Senate Floor.

AB 282 (Lackey), of the 2021-2022 Legislative Session, would have DUI and other offenses relating to reckless operation of a vehicle excluded from court-initiated misdemeanor diversion. AB 282 failed passage in the Senate Public Safety Committee.

SB 421 (Bradford), of the 2021-2022 Legislative Session, would have established a pretrial diversion scheme with specific conditions for misdemeanor DUI violations. SB 421 was held in the Senate Appropriations Committee.

## **REGISTERED SUPPORT / OPPOSITION:**

### **Support**

AAA Northern California, Nevada & Utah  
Arcadia Police Officers' Association  
Auto Club of Southern California  
Brea Police Association  
Burbank Police Officers' Association  
California Association of Highway Patrolmen  
California Association of School Police Chiefs  
California Coalition of School Safety Professionals  
California Consortium of Addiction Programs and Professionals  
California State Sheriffs' 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  
League of California Cities  
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  
Safety and Advocacy for Empowerment  
Streets for All  
Two Individuals

**Oppose**

ACLU California Action  
Western Center on Law & Poverty

**Analysis Prepared by:** David Sforza / TRANS. / (916) 319-2093