

Date of Hearing: April 14, 2026

Counsel: Dustin Weber

ASSEMBLY COMMITTEE ON PUBLIC SAFETY

Nick Schultz, Chair

AB 1739 (Ward) – As Amended March 9, 2026

**As Proposed to be Amended in Committee**

**SUMMARY:** Makes it a crime for a member of the clergy providing therapeutic services to engage in sexual activity with a current or former patient or client who received therapeutic services within two years from the end of the services being provided, except as specified. Specifically, **this bill:**

- 1) States that, unless the member of the clergy who provided therapeutic services has referred the member of the congregation to an independent and objective member of the clergy recommended by a third-party member, a member of the clergy who provided therapeutic services within two years of the therapeutic services having terminated, who also engages in sexual intercourse, sodomy, oral copulation, or sexual contact with a current or former patient or client is guilty of sexual exploitation.
- 2) Provides that sexual exploitation by a member of the clergy who provided therapeutic services is a public offense punishable as follows:
  - a) For a single act of sexual exploitation, up to six months in county jail, or a fine of up to \$1,000, or both.
  - b) For multiple acts of sexual exploitation with a single victim, when the member of the clergy has no prior convictions, up to six months in county jail, or a fine of up to \$1,000, or both.
  - c) For an act or acts of sexual exploitation with two or more victims, imprisonment for 16 months, 2 years, or 3 years, and a fine of up to \$10,000; or up to one year in county jail, or by a fine of up to \$1,000, or by both.
  - d) For two or more acts of sexual exploitation with a single victim, when the member of the clergy has at least one prior conviction, imprisonment for 16 months, 2 years, or 3 years, and a fine of up to \$10,000; or up to one year in county jail, or by a fine of up to \$1,000, or by both.
  - e) For an act or acts of sexual exploitation with two or more victims, and the member of the clergy has a least one prior conviction, imprisonment for 16 months, two years, or three years, and a fine of up to \$10,000.
- 3) Provides that consent of the patient or client is not a defense against conviction for sexual exploitation by a member of the clergy who provided therapeutic services.

- 4) Provides that no person, during a specified investigation or prosecution, shall seek to obtain disclosure of any confidential files of other current or former members of the congregation of the clergy member who provided therapeutic services.
- 5) States that if a member of the clergy who provided therapeutic services, who is in a professional partnership or similar group has specified sexual contact with a patient or client, then another member of the clergy in the partnership or practitioner group shall not be subject to the above penalties solely because of the occurrence of that sexual contact.
- 6) Establishes that consistent with other defined laws, specified laws shall not be construed to apply to duly ordained members of the recognized clergy, or duly ordained religious practitioners doing work of a psychological nature consistent with the laws governing their respective professions, provided they do not state or imply that they are licensed to practice psychology.
- 7) Clarifies that inclusion of members of the clergy who provided therapeutic services into this law is intended only to convey the intent of the Legislature that members of the clergy perform their functions pursuant to a code of conduct that prohibits sexual contact with members, parishioners, worshipers, adherents, or others and is at least as stringent as the prohibitions described in this section applicable to physicians and surgeons, psychotherapists, research psychoanalysts, student research psychoanalysts, and alcohol and drug abuse counselors, and to impose similar penalties for violations of that code of conduct.
- 8) Defines “member of the clergy” as a priest, minister, rabbi, ordained religious practitioner, or similar functionary of a recognized religious organization. This term shall apply under this section only when the clergy member is providing “therapeutic services.”
- 9) Defines “therapeutic services” as counseling, mental health guidance, spiritual counseling involving the treatment of emotional, psychological, or behavioral conditions, or other services that are substantially similar in nature to psychotherapy, whether or not the provider is licensed by the state.
- 10) Defines “former patient or client” includes any individual who received therapeutic services from the provider. A patient or client shall be considered a former patient or client only after termination of the therapeutic relationship.
- 11) Expands the definition of “sexual contact” to include sexual intercourse or the touching of an intimate part of a client for the purpose of sexual arousal, gratification, or abuse.

**EXISTING LAW:**

- 1) States that the commission of any act of sexual abuse, misconduct, or relations with a patient, client, or customer constitutes unprofessional conduct and grounds for disciplinary action for any person licensed or under any initiative act, as defined. (Bus. & Prof. Code, § 726, subd. (a).)
- 2) Provides that the prohibition against sexual exploitation shall not apply to consensual sexual contact between a licensee and his or her spouse or person in an equivalent domestic

relationship when that licensee provides medical treatment, other than psychotherapeutic treatment, to his or her spouse or person in an equivalent domestic relationship. (Bus. & Prof. Code, § 726, subd. (b).)

- 3) Provides that any psychotherapist or employer of a psychotherapist who becomes aware through a client that the client had alleged sexual intercourse or alleged sexual behavior or sexual contact with a previous psychotherapist during the course of a prior treatment shall provide to the client a specified brochure that delineates the rights of, and remedies for, clients who have been involved sexually with their psychotherapists. Further, the psychotherapist or employer shall discuss the brochure with the client. (Bus. & Prof. Code, § 728, subd. (a).)
- 4) States that failure to comply with the requirement that any psychotherapist or employer of a psychotherapist who becomes aware through a client that the client had alleged sexual intercourse or alleged sexual behavior or sexual contact with a previous psychotherapist during the course of a prior treatment shall provide to the client a brochure constitutes unprofessional conduct. (Bus. & Prof. Code, § 728, subd. (b).)
- 5) Establishes that any physician and surgeon, psychotherapist, research psychoanalyst, student research psychoanalyst, or alcohol and drug abuse counselor, or any person holding themselves out to be a physician and surgeon, psychotherapist, research psychoanalyst, student research psychoanalyst, or alcohol and drug abuse counselor, who engages in an act of sexual intercourse, sodomy, oral copulation, or sexual contact with a patient or client, or with a former patient or client when the relationship was terminated primarily for the purpose of engaging in those acts, unless the physician and surgeon, psychotherapist, research psychoanalyst, student research psychoanalyst, or alcohol and drug abuse counselor has referred the patient or client to an independent and objective physician and surgeon, psychotherapist, research psychoanalyst, student research psychoanalyst, or alcohol and drug abuse counselor recommended by a third-party physician and surgeon, psychotherapist, research psychoanalyst, student research psychoanalyst, or alcohol and drug abuse counselor for treatment, is guilty of sexual exploitation by a physician and surgeon, psychotherapist, research psychoanalyst, student research psychoanalyst, or alcohol and drug abuse counselor. (Bus. & Prof. Code, § 729, subd. (a).)
- 6) States that sexual exploitation by a physician and surgeon, psychotherapist, research psychoanalyst, student research psychoanalyst, or alcohol and drug abuse counselor is a public offense with the following penalties:
  - a) An act in violation of subdivision (a) shall be punishable by imprisonment in a county jail for a period of not more than six months, or a fine not exceeding one thousand dollars (\$1,000), or by both that imprisonment and fine.
  - b) Multiple acts in violation of subdivision (a) with a single victim, when the offender has no prior conviction for sexual exploitation, shall be punishable by imprisonment in a county jail for a period of not more than six months, or a fine not exceeding one thousand dollars (\$1,000), or by both that imprisonment and fine.

- c) An act or acts in violation of subdivision (a) with two or more victims shall be punishable as a wobbler, or a fine not exceeding one thousand dollars (\$1,000), or by both that imprisonment and fine.
  - d) Two or more acts in violation of subdivision (a) with a single victim, when the offender has at least one prior conviction for sexual exploitation, shall be punishable as a wobbler, or a fine not exceeding one thousand dollars (\$1,000), or by both that imprisonment and fine.
  - e) An act or acts in violation of subdivision (a) with two or more victims, and the offender has at least one prior conviction for sexual exploitation, shall be punishable for a period of 16 months, two years, or three years, and a fine not exceeding ten thousand dollars. (\$10,000). (Bus. & Prof. Code, § 729, subd. (b)(1)-(5).)
- 7) Provides that in no instance shall consent of the patient or client be a defense. However, physicians and surgeons shall not be guilty of sexual exploitation for touching any intimate part of a patient or client unless the touching is outside the scope of medical examination and treatment, or the touching is done for sexual gratification. (Bus. & Prof. Code, § 729, subd. (b).)
- 8) Prohibits a person, in an investigation and prosecution of sexual exploitation, as defined, from seeking to obtain disclosure of any confidential files of other patients, clients, or former patients or clients of the physician and surgeon, psychotherapist, research psychoanalyst, student research psychoanalyst, or alcohol and drug abuse counselor. (Bus. & Prof. Code, § 729, subd. (d).)
- 9) States that the penalties for sexual exploitation outlined above do not apply to sexual contact between a physician and surgeon and their spouse or person in an equivalent domestic relationship when that physician and surgeon provides medical treatment, other than psychotherapeutic treatment, to their spouse or person in an equivalent domestic relationship. (Bus. & Prof. Code, § 729, subd. (e).)
- 10) Provides that if a physician and surgeon, psychotherapist, research psychoanalyst, student research psychoanalyst, or alcohol and drug abuse counselor in a professional partnership or similar group has unlawful sexual contact with a patient, another physician and surgeon, psychotherapist, research psychoanalyst, student research psychoanalyst, or alcohol and drug abuse counselor in the partnership or group shall not be subject to defined action solely because of the occurrence of that sexual contact. (Bus. & Prof. Code, § 729, subd. (f).)
- 11) States that any person licensed, certified, registered, or otherwise subject to defined regulations who engages in, or who aids or abets in specified violations occurring in the work premises of, or work area under the direct professional supervision or control of, that person shall be guilty of unprofessional conduct. (Bus. & Prof. Code, § 731, subd. (a).)
- 12) The license, certification, or registration of that person shall be subject to denial, suspension, or revocation by the appropriate regulatory entity. (Bus. & Prof. Code, § 731, subd. (a).)

- 13) Defines “alcohol and drug abuse counselor” means an individual who holds themselves out to be an alcohol or drug abuse professional or paraprofessional. (Bus. & Prof. Code, § 729, subd. (c)(2).)
- 14) Defines “sexual contact” means sexual intercourse or the touching of an intimate part of a patient for the purpose of sexual arousal, gratification, or abuse. (Bus. & Prof. Code, § 729, subd. (c)(3).)
- 15) Defines “touching” as physical contact with the skin of another person whether accomplished directly or through the clothing of the person committing the offense. (Pen. Code, § 243.4, subd. (f).)
- 16) Defines “intimate part” as the sexual organ, anus, groin, or buttocks of any person, and the breast of a female. (Pen. Code, § 243.4, subd. (g)(1).)

**FISCAL EFFECT:** Unknown

**COMMENTS:**

- 1) **Author's Statement:** According to the author, “AB 1739 addresses a gap in California law by extending existing sexual exploitation protections to members of the clergy who provide spiritual counseling or pastoral guidance. While current law prohibits physicians, psychotherapists, and substance use counselors from engaging in sexual contact with patients due to the inherent power imbalance in those relationships, clergy who occupy similarly trusted positions are not explicitly included in the statute.

“AB 1739 closes this gap by holding clergy to the same standards that apply to other counseling professions when they exploit a position of trust with a congregant. By ensuring consistent protections across these relationships, the bill strengthens accountability and helps safeguard individuals seeking spiritual guidance.”

- 2) **Effect of the Bill:** AB 1739 seeks to address potential sexual exploitation by providing for punishment for certain clergy-congregant relationships, where the relationship involved rendering therapeutic services within two years of the services having terminated.

Existing law prohibits individuals in various positions of apparent authority or influence from engaging in sexual relations with their clients. (Bus. & Prof. code, § 729, subd. (a).) The inherent power imbalance in these relationships is cited as a core reason supporting both existing prohibitions and the need for this bill applying to clergy and congregants. Violators under this bill could face potential fines and imprisonment of up to three years. (Bus. & Prof. Code, § 729, subd. (b).) Exploitation based on authority can exist in a variety of situations and relationships. For example, a supervisor and their employee, or a professor and their adult student, or a coach and adult athlete. These relationships may have employment or other professional implications, however, when occurring between consenting adults, they are not criminalized. While consent is presumed not to be able to be given by a client in the congregation who received therapeutic services, this provision applies to the relationships captured in existing law.

AB 1739 could sweep into consensual adult relationships that occur within two years of a member of the clergy who provided therapeutic services to a former client in the congregation who received those services. Unlike a doctor providing medical care to a patient, a clergy member, even one who provided therapeutic services, and an adult client-congregant likely are a part of the same community. A loss of that community may mean a loss of the ability to express and practice one's faith in a communal setting. This is especially true in small, sparsely populated, or rural areas where establishing a relationship with a person of the same faith can be difficult, if not impossible, absent a relationship with a client-congregant.

Importantly, AB 1739 appears narrowly tailored to capture only those relationships where some kind of power imbalance exists between a person who may be considered an authority figure, who is also providing therapeutic services of a nature substantially similar to psychological treatment, and a client or congregant who received those services. Some of the concerns that could have attached to more broadly prohibited consensual relationships may be reduced by applying the law only to relationships where deeply personal confidences were shared possibly with personalized behavioral advice provided. There is arguably more risk for exploitation between a spiritual leader and a person in a vulnerable state leading them to seek this guidance and direction. By limiting the application of the bill to a member of the clergy who provided therapeutic services largely similar to psychological counseling, there should be less risk of arbitrary and capricious prosecution.

- 3) **The First Amendment:** By regulating conduct of religious institutions and their adherents, AB 1739 may invite First Amendment scrutiny. The First Amendment to the United States Constitution, in relevant part, generally prohibits government from establishing a religion (Establishment Clause) and preventing the free exercise of religion (Free Exercise Clause). (U.S. Const., Amend. I.) Furthermore, the First Amendment protects an individual's right to free association. (*Ibid.*)

- a) *Establishment Clause*

The Establishment Clause of the First Amendment applies to the States via the Fourteenth Amendment's Due Process Clause. (*Murdock v. Pennsylvania* (1943) 319 U.S. 105.) To survive Establishment Clause scrutiny, the law in question must reflect a clearly secular legislative purpose, must have a primary effect that neither advances nor inhibits religion, and must avoid excessive government entanglement with religion. (*Lemon v. Kurtzman* (1971) 403 U.S. 602) [hereinafter "Lemon test"].

Courts will generally uphold nonsectarian laws aimed at remedying important public policy concerns. (*Comm. for Public Educ. & Religious Liberty v. Nyquist* (1973) 413 U.S. 756, 773.) But legislative purposes may not immunize from further scrutiny a law that runs afoul of the Lemon test. (*Ibid.*) AB 1739 purports to combat sexual exploitation by clergy over clients, where therapeutic services were involved. AB 1739 appears to have a secular purpose since the law being modified applies to various nonsecular provider-patient type relationships. The legislature has an understandable interest in preventing sexual exploitation by those in positions of apparent authority or influence. AB 1739's primary purpose appears not to be advancing religion because it is not promoting religion and its prohibitions would be generally applicable. Whether the bill excessively entangles government and religion in a continuing and intimate relationship is less clear. Arguably, a law that provides for criminal

prosecutions of clergy, even where those relationships involve a therapeutic relationship, may establish a continuous and intimate relationship between church and state. But that adversarial type of relationship does not appear to be the type of relationship courts have found offensive to the First Amendment. AB 1739 therefore does not appear to create a risk of excessive entanglement.

First Amendment scrutiny of AB 1793 may be most contested in whether it inhibits religion. Certain religions permit sexual relationships between clergy and congregants. Consensual relationships, including marriage, are not uncommon between church leaders and congregants in some religions. Conjugal relations between couples are often shared expectations, if not commitments, within certain religious traditions. Like other provider-patient relationships where sexual exploitation is punishable under the law, the client-congregant under this law would be presumed unable to consent. So, this law could produce a case where a criminal law is applied to an individual who is adhering to a documented tradition of an established religion. This could create a First Amendment concern, though it is ultimately unclear whether AB 1739 creates an Establishment Clause concern.

b) *Free Exercise Clause*

Another First Amendment concern for AB 1739 could come from the First Amendment's Free Exercise Clause. The US Supreme Court held the First Amendment's provision prohibiting laws interfering with the free exercise of religion protect unorthodox as well as orthodox religious beliefs and practices, religious organizations as well as individuals. (*Murdock*, supra.) While the Court has permitted limited regulation of certain religious practices, it has generally provided robust protection for religious organizations in exercising the tenants of their faiths. (*Ibid* ["The Free Exercise Clause requires a complete withdrawal from government of any power to proscribe, regulate, either directly or indirectly, any particular religious beliefs or doctrines . . . ."].)

AB 1739 provides for the possibility that a member of the clergy who provided therapeutic services within two years of entering into a consensual partnership with the congregant could be criminally prosecuted for engaging in a sexual relationship with someone who ultimately became their partner. Should the couple have gotten married within those two years, the bill's prohibitions could apply as well. The bill does generally follow existing precedent with provider-patient relationships though by limiting the law's reach to a spiritual leader who provided therapeutic services to a client in the past two years. While the limitations included in the bill and its adherence to similar precedent likely helps support the bill's constitutionality, certain possible application of the bill leave it subject to First Amendment challenges.

c) *Free Association*

The right to freely associate is a fundamental right, which includes the right to freedom to engage with others for the advancement of beliefs and ideas. (*NACCP v. Alabama ex rel. Patterson* (1958) 357 U.S. 449, 460.) An individual's right to freely speak and worship is unprotected without a correlative right to engage in group efforts for the continued security of those rights. (*Roberts v. United States Jaycees* (1984) 408 U.S. 609, 622.) The freedom of association is most directly infringed when government attempts to punish membership in a group. (*Scales v. U.S.* (1961) 367 U.S. 203.) Whether a law undermines a group's ability to

engage in its expressive activities is key to evaluating the law's constitutionality. (*Roberts, supra*, at 624.) One effect of this bill could be punishing group membership. The possibility that AB 1739's prohibitions could extend to certain couples may force a painful choice between maintaining one's faith, spiritual leader, or place of worship, and risking criminal conviction. Thus, AB 1739 may impact First Amendment associational rights.

Beyond the potential First Amendment concerns, the fact that AB 1739 could force a couple to choose between partnership and faith, absent a criminal penalty, creates a potential fundamental rights problem. The United States Supreme Court has held that marriage is a fundamental right protected by the Due Process Clause of the U.S. Constitution and "one of the vital personal rights essential to the orderly pursuit of happiness . . ." (*Obergefell v. Hodges* (2015) 576 U.S. 644, 664.) AB 1739 aims to address sexual exploitation by criminalizing certain relationships between clergy providing therapeutic services and a congregant who received those services.

- 4) **Argument in Support:** According to *Safe to Speak Initiative*, "I am writing to express our strong support for Assembly Bill 1739, authored by Assembly Member Ward, which would amend the Business and Professions Code to explicitly include members of the clergy in California's prohibitions against sexual exploitation of vulnerable individuals.

"This bill is an important and overdue step toward ensuring that all Californians—especially those who enter into trusting relationships with spiritual leaders—are afforded the same legal protections against abuse that currently exist for patients, clients, and others in professional therapeutic settings. When clergy engage in sexual abuse and misconduct, they often weaponize the faith of their congregants—compounding the trauma that is common to all abuse survivors.

"The Safe to Speak Initiative champions policies that protect Californians from abuse, harassment, and exploitation in every setting—professional, spiritual, and personal. AB 1739 aligns with our mission by addressing a critical gap that affects the well-being and safety of our communities.

"We respectfully urge the Legislature to pass AB 1739 and send a strong message that all forms of sexual exploitation will not be tolerated under California law."

- 5) **Argument in Opposition:** According to the *American Civil Liberties Union (ACLU)*, "The American Civil Liberties Union California Action must regretfully oppose AB 1739, which would make it a crime for a member of the clergy, if in a position of trust or authority over an adult parishioner, to engage in any sexual contact with that adult parishioner, even if the sexual contact is consensual. The first consensual sexual contact with an adult parishioner would be punished as a misdemeanor, while sexual contact with a second adult parishioner would be a felony.

"While consensual sexual activity between a clergy person and an adult parishioner may be unadvisable, it would be a radical departure from existing law to make it a crime. To do so would be massive government overreach into one of the most private and intimate areas in any person's life. The idea of incarcerating everyone who has violated a social norm has already led to mass incarceration. Many situations exist in which one adult is in a position of trust or authority over another adult: for example, the attorney/client relationship, the

financial advisor/client relationship, and the supervisor/employee relationship. However, the law does not criminalize consensual sexual contact between adults in these relationships.

“Unlike several states that have aimed to protect parishioners who have sought mental, emotional, or spiritual counseling from their clergy, AB 1739 merely states that a member of the clergy cannot engage in sexual activity with a member of that congregation if they offer “treatment,” which is not defined.

“Several other jurisdictions in the nation define the nature of the trust relationship by including pastors in the same category as other counselors. Connecticut, Delaware, Minnesota, New Mexico, North Dakota, South Dakota, Tennessee, and the District of Columbia specifically require that there is an actual counseling relationship between pastors and their parishioners akin to that between therapists and their clients before sexual conduct is illegal. Some of these states require more, such as fraud or deceit, than others for the conduct to be illegal.

“While it is clear what “treatment” captures for a psychotherapist or alcohol and drug abuse counselor, applying this term to a member of a clergy and their congregants is much more ambiguous. For instance, does this apply to a religious practitioner who officiates a wedding and offers words of spiritual teachings about love — would this be considered a form of spiritual guidance that can be construed as “treatment” to any congregants who attend that wedding? Does a priest, minister, or rabbi espousing religious teachings in a place of worship constitute as a form of “treatment” if a member of the congregation interprets those words to be particularly healing to them?

“Without a proper definition for “treatment,” AB 1739 is so overbroad that it could potentially criminalize a relationship between certain members of the clergy of a 4,000 person congregation who has never even met their parishioner before they connect at a social event and they embark on a sexual relationship, specifically if the parishioner believed they received any sort of guidance from the clergy member. Even more absurd, an individual could watch a remote service via the internet or television, consider themselves a congregant that received spiritual guidance from the clergy member, and the two individuals who have never met in person at a service before could start what would be an illegal sexual relationship under this legislation if they met someplace in their local community.

“AB 1739 is not necessary to prevent non-consensual sexual contact between a member of the clergy and an adult parishioner because existing law already criminalizes non-consensual sexual contact between two people, regardless of their relationship.”

- 6) **Related Legislation:** AB 2140 (Johnson) would increase the minimum fine for a violation of the unauthorized rendering of professional services statute, as defined, to \$100. AB 2140 is pending hearing in the Assembly Business and Professions Committee.
- 7) **Prior Legislation:**
  - a) SB 894 (Min), of the 2023-2024 Legislative Session, would have made a member of the clergy, as defined, who engages in specified consensual sexual acts or contact with an adult congregant, as specified, guilty of sexual exploitation by a member of the clergy. SB 894 was held in the Senate Judiciary Committee.

- b) SB 1012 (Weiner), of the 2023-2024 Legislative Session, would have would establish the Board of Regulated Psychedelic Facilitators in the Department of Consumer Affairs to license and regulate psychedelic facilitators, as defined. SB 1012 was held in the Senate Appropriations Committee.

**REGISTERED SUPPORT / OPPOSITION:**

**Support**

Consumer Attorneys of California  
Epiphany-me Counselling  
Safe to Speak Initiative  
SNAP Survivors Network of Those Abused by Priests  
Stand With Survivors  
19 Private Individuals

**Opposition**

ACLU California Action  
California Public Defenders Association  
Californians United for a Responsible Budget  
Initiate Justice  
Smart Justice California, a Project of Beyond Impact

**Analysis Prepared by:** Dustin Weber / PUB. S. / (916) 319-3744