

Date of Hearing: April 21, 2026

ASSEMBLY COMMITTEE ON BUSINESS AND PROFESSIONS

Marc Berman, Chair

AB 1739 Ward – As Amended April 16, 2026

NOTE: This bill is double-referred and passed out of the Assembly Public Safety Committee on April 14, 2026, on a 7-1-1 vote.

SUBJECT: Healing arts: sexual exploitation: clergy.

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, as defined, within two years from the end of the services being provided, except as specified.

EXISTING LAW:

- 1) Establishes the Department of Consumer Affairs (DCA) within the Business, Consumer Services, and Housing Agency. (Business and Professions Code (BPC § 100)
- 2) Provides for the licensure and regulation of various professions and vocations by boards, bureaus, and other entities within the DCA. (BPC §§ 22, 100-144.5)
- 3) Regulates the practice of medicine through the licensure of physicians and surgeons under the Medical Practice Act and establishes the Medical Board of California to administer and enforce the Act. (BPC §§ 2000-2529.6)
- 4) Regulates the practice of psychology through the licensure of psychologists under the Psychology Licensing Law and establishes the Board of Psychology to administer and enforce the Law. (BPC § 2901)
- 5) Regulates and licenses marriage and family therapists (LMFTs) under the Licensed Marriage and Family Therapist Act, educational psychologists (LEPs) under the Educational Psychologist Practice Act, clinical social workers (LCSWs) under the Clinical Social Worker Practice Act, and professional clinical counselors (LPCCs) under the Licensed Professional Clinical Counselor Act and establishes the Board of Behavioral Sciences to administer and enforces the practice acts. (BPC §§ 4980-4989, 4989.10-4989.70, 4991-4998.5, 4999.10-4999.129, and 4990-4990.42)
- 6) Establishes the state’s role in alleviating issues related to the problematic use of substances under the Department of Health Care Services (DHCS). (Health and Safety Code (HSC) §§ 11760-11872)
- 7) Defines “alcohol or other drug program” or “program” as a business entity with a physical location in the State of California that provides one or more of the following services to clients: (1) treatment services, (2) recovery services, (3) detoxification services, or (4) medications for addiction treatment; but not a licensed healing arts practitioner. (HSC § 11832.2)

- 8) Prohibits any person, firm, partnership, association, or local government entity from establishing, operating, managing, conducting, or maintaining an alcohol or other drug program within this state without first obtaining a program certification from the DHCS. (HSC § 11832.7)
- 9) Grants the DHCS the sole authority in state government to establish the minimum qualifications of an alcohol or other drug program administrator and staff who provide any of the services requiring program certification. (HSC § 11832.10)
- 10) Prohibits any person, firm, partnership, association, corporation, or local governmental entity from operating, establishing, managing, conducting, or maintaining an alcoholism or drug abuse recovery or treatment facility to provide recovery, treatment, or detoxification services within this state without first obtaining a facility license from the DHCS. (HSC § 11834.30)
- 11) Grants the DHCS the sole authority in state government to establish the appropriate minimum qualifications of the licensee or designated administrator, and the staff of a provider of any of the services requiring a facility license. (HSC § 11834.27)
- 12) Grants the DHCS the sole authority in state government to determine the qualifications, including the appropriate skills, education, training, and experience of personnel working within an alcohol or other drug program. (HSC § 11833(a))
- 13) Requires any person providing counseling services within a substance use recovery or treatment program to be registered with, or certified by, a certifying organization approved by the DHCS, except as specified. (HSC § 11833(c)(1))
- 14) Defines “certified AOD counselor” as an individual certified by a certifying organization approved by the DHCS. (California Code of Regulations (CCR), Title 9, § 13005(a)(2))
- 15) Defines “registrant” as an individual registered with any certifying organization to obtain certification as an AOD counselor. (CCR, tit. 9, § 13005(a)(8))
- 16) Identifies 10 certifying organizations as DHCS-approved, establishes the method for other certifying organizations to become approved, and establishes the requirements for maintaining approval. (CCR, tit. 9, § 13035)
- 17) 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. (BPC § 726(a))
- 18) 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. (BPC § 726(b))
- 19) Specifies 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. (BPC § 729(a))

20) Makes sexual exploitation by a physician and surgeon, psychotherapist, research psychoanalyst, student research psychoanalyst, or alcohol and drug abuse counselor a public offense punishable as follows:

- a) A violation shall be punishable by imprisonment in a county jail for a period of not more than six months, or a fine not exceeding \$1,000, or by both that imprisonment and fine.
- b) Multiple violations 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 \$1,000, or by both that imprisonment and fine.
- c) A violation with two or more victims shall be punishable by imprisonment for a period of 16 months, two years, or three years, and a fine not exceeding \$10,000; or the act or acts shall be punishable by imprisonment in a county jail for a period of not more than one year, or a fine not exceeding one thousand dollars \$1,000, or by both that imprisonment and fine.
- d) Two or more acts violations with a single victim, when the offender has at least one prior conviction for sexual exploitation, shall be punishable by imprisonment for a period of 16 months, two years, or three years, and a fine not exceeding \$10,000; or the act or acts shall be punishable by imprisonment in a county jail for a period of not more than one year, or a fine not exceeding \$1,000, or by both that imprisonment and fine.
- e) A violation with two or more victims, and the offender has at least one prior conviction for sexual exploitation, shall be punishable by imprisonment for a period of 16 months, two years, or three years, and a fine not exceeding \$10,000.

(BPC § 729(b)(1)-(5))

21) Specifies 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. (BPC § 729(b))

22) Defines “psychotherapist” as a physician and surgeon specializing in the practice of psychiatry or practicing psychotherapy; a psychologist, a psychological assistant, a trainee under the supervision of a licensed psychologist, a marriage and family therapist, an

associate marriage and family therapist, a marriage and family therapist trainee, a licensed educational psychologist, a clinical social worker, an associate clinical social worker, a licensed professional clinical counselor, an associate professional clinical counselor, or a clinical counselor trainee. (BPC § 729(c)(1))

- 23) Defines “alcohol and drug abuse counselor” as an individual who holds themselves out to be an alcohol or drug abuse professional or paraprofessional. (BPC § 729(c)(2))
- 24) Defines “sexual contact” to mean sexual intercourse or the touching of an intimate part of a patient for the purpose of sexual arousal, gratification, or abuse. (BPC § 729(c)(3))
- 25) Defines “Intimate part” as the sexual organ, anus, groin, or buttocks of any person, and the breast of a female. (BPC § 729(c)(4))
- 26) Defines “touching” as physical contact with the skin of another person, whether accomplished directly or through the clothing of the person committing the offense. (BPC § 729(c)(4))
- 27) Prohibits a person 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 during the investigation and prosecution of a violation. (BPC § 729(d))
- 28) Specifies that this law does 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. (BPC § 729(e))
- 29) 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 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 action under this section solely because of the occurrence of that sexual contact. (BPC § 729(f))

THIS BILL:

- 1) Specifies that any member of the clergy providing therapeutic service, or any person holding themselves out to be a member of the clergy providing therapeutic services, who engages in an act of sexual intercourse, sodomy, oral copulation, or sexual contact with a current or former patient, client, or member of the congregation within two years following termination of therapeutic services, when the relationship was terminated primarily for the purpose of engaging in those acts, unless the provider has referred the patient, or client, or member of the congregation to an independent and objective licensed profession or qualified provider of therapeutic services recommended by a third party for treatment, is guilty of sexual exploitation by a member of the clergy.
- 2) Makes sexual exploitation by a member of the clergy a public offense.
- 3) Specifies that in no instance shall consent of the member of the congregation be a defense.

- 4) Expands the definition of “sexual contact” to include sexual intercourse or the touching of an intimate part of a client or member of the congregation for the purpose of sexual arousal, gratification, or abuse.
- 5) Provides that no person shall seek to obtain disclosure of any confidential files of other current or former members of the congregation of the member of the clergy in the investigation and prosecution of a violation.
- 6) Specifies that if a member of the clergy in a professional partnership or similar group has contact with a member of the congregation in violation of this bill, another member of the clergy in the partnership or practitioner group shall not be subject to action solely because of the occurrence of that sexual contact.
- 7) Provides that the law shall not be construed to apply the Psychology License Law 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.
- 8) Specifies that inclusion of members of the clergy 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 existing law 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.
- 9) Defines “member of the clergy” as a priest, minister, rabbi, ordained religious practitioner, or similar functionary of a recognized religious organization, and specifies that this term applies only when the clergy member is providing therapeutic services.
- 10) 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.
- 11) Reorders definitions.

FISCAL EFFECT: Unknown; this bill is keyed fiscal by the Legislative Counsel.

COMMENTS:

Purpose. This bill is sponsored by the author. According to the author:

[This bill] closes a critical gap in California law by ensuring that clergy who provide therapeutic services are held to the same standards as other counseling professionals. Existing law recognizes that relationships involving mental health guidance or counseling inherently involve a power imbalance that can be exploited, and it appropriately prohibits sexual relationships in those contexts. However, clergy who provide substantially similar therapeutic services are not currently included in these protections. AB 1739 narrowly addresses this issue by applying existing standards only when clergy are acting in a

therapeutic capacity, ensuring consistency in the law while safeguarding individuals seeking guidance during vulnerable moments.

Background.

Psychotherapy Regulation. Psychiatry, psychology, marriage and family therapy, clinical social work, and professional clinical counseling may only be practiced by psychiatrists, psychologists, marriage and family therapists, clinical social workers, and professional clinical counselors licensed by the Medical Board of California, the Osteopathic Medical Board of California, the California Board of Psychology, or the California Board of Behavioral Sciences pursuant to their respective practice acts. A violation of a practice act or the commission of unprofessional conduct is grounds for discipline by the applicable licensing board.

Duly ordained members of the recognized clergy and duly ordained religious practitioners, are exempt from the Psychology Licensing Law, provided that they do not hold themselves out to the public by any title or description of services incorporating the words “psychological,” “psychologist,” “psychology,” “psychometrist,” “psychometrics,” or “psychometry,” or that they do not state or imply that they are licensed to practice psychology. Similarly, the Clinical Social Worker Practice Act authorizes qualified members of other professional groups, including a priest, rabbi, or minister of the gospel of any religious denomination, to do work of a psychosocial nature consistent with the standards and ethics of their respective professions, but prohibits those individuals from holding themselves out to the public by any title or description of services incorporating the words psychosocial, or clinical social worker, or from stating or implying that they are licensed to practice clinical social work. Likewise, neither the Licensed Marriage and Family Therapist Act nor the Licensed Professional Clinical Counselor Act applies to any priest, rabbi, or minister of the gospel of any religious denomination who performs counseling services as part of their pastoral or professional duties.

Drug and Alcohol Abuse Counselors. While state law generally requires a license to practice counseling, substance use counselors, which are not required to be licensed, may provide counseling services in alcohol and drug programs licensed or certified by the Department of Health Care Services (DHCS). Substance use counselors must be registered with or certified by a DHCS-approved certifying organization, of which there are three. Certification requires completion of specified education and professional experience and passage of an examination. The DHCS ensures the provision of quality treatment by enforcing standards for professional and safe care. The DHCS’s Licensing and Certification Division investigates complaints against California’s alcohol and other drug recovery and treatment programs, as well as violations of the code of conduct of registered or certified alcohol and other drug counselors.

Sexual Exploitation. BPC § 729 makes any physician and surgeon, psychotherapist, research psychoanalyst, student research psychoanalyst, or alcohol and drug abuse counselor, or any person holding themselves out to be one of those occupations, guilty of sexual exploitation if they engage 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 they have 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. Sexual exploitation by a

physician and surgeon, psychotherapist, research psychoanalyst, student research psychoanalyst, or alcohol and drug abuse counselor is a public offense punishable by imprisonment up to three years and/or a fine up to \$10,000, as specified. Consent of the patient or client is not a defense. In addition to criminal punishment, any physician and surgeon, psychotherapist, research psychoanalyst, student research psychoanalyst, or alcohol and drug abuse counselor found guilty of sexual exploitation is subject to disciplinary action by the appropriate regulatory entity (e.g., the Medical Board of California).

This bill would expand the crime of sexual exploitation to members of the clergy providing therapeutic services, as defined, who engage in an act of sexual intercourse, sodomy, oral copulation, or sexual contact with a current or former patient, client, or member of the congregation within two years following termination of therapeutic services, when the relationship was terminated primarily for the purpose of engaging in those acts, unless the provider has referred the patient, or client, or member of the congregation to an independent and objective licensed professional or qualified provider of therapeutic services recommended by a third party for treatment.

These provisions are within the jurisdiction of the Assembly Public Safety Committee, which previously heard this bill.

Current Related Legislation. AB 1598 (Quirk-Silva), as it relates to this bill, clarifies the pastoral counseling exemption in the Marriage and Family Therapist Act, Clinical Social Worker Practice Act, and the Professional Clinical Counselor Act. *That bill is pending in the Assembly Appropriations Committee.*

Prior Related Legislation. SB 894 (Min) would have established a new crime of sexual exploitation that applies when a member of the clergy is in a position of trust or authority over an adult congregant and engages in an act of sexual intercourse, sodomy, oral copulation, or sexual contact with that adult congregant. *That bill died pending a hearing in the Senate Judiciary Committee.*

ARGUMENTS IN SUPPORT:

In support of this bill, *Stand with Survivors* writes:

This bill extends Business and Professions Code Section 729, which prohibits sexual exploitation by physicians, psychotherapists, and drug and alcohol counselors, to include members of the clergy. Every day that clergy exploitation remains outside this framework, abusers face no criminal accountability specific to their conduct and survivors are denied the legal recognition they deserve...This bill is proportionate and carefully scoped. It does not impose licensing requirements on clergy, regulate religious doctrine, or create vicarious liability for colleagues. It is narrowly targeted at the exploitative act itself, with penalties that mirror existing law: misdemeanor sanctions for single violations, felony accountability for repeat offenders or those with multiple victims. Its declaration that clergy should operate under a code of conduct at least as stringent as licensed healthcare professionals is an entirely reasonable standard for those who present themselves as moral and spiritual authorities.

ARGUMENTS IN OPPOSITION:

In opposition, *ACLU California Action* writes:

The American Civil Liberties Union California Action must regretfully oppose [this bill], which would make it a crime for a member of the clergy providing “therapeutic services,” such as spiritual counseling, to engage in any sexual contact with a member of their congregation, even if the sexual contact is consensual.

This nation has a long history of legislating people’s sexual lives, which we have long advocated against as it is a blatant violation of a person’s autonomy and privacy. While consensual sexual activity between a clergy person providing spiritual counseling and an adult parishioner may be unadvisable, it does not rise to the level of being a crime. To do so would be massive government overreach into one of the most private and intimate areas in any person’s life, in which the government has no business legislating when these acts are consensual.

[...]

[This bill] is unnecessary 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. Ultimately, we believe religious congregations can adopt their own rules concerning a clergy member’s sexual activity with their congregation. This is a matter best handled by each religious sect, not the government.

IMPLEMENTATION ISSUE(S) FOR CONSIDERATION:

Code Placement. BPC § 729 applies to physicians and other psychotherapists as well as research psychoanalysts and student research psychoanalysts, all of whom are licensees or registrants of the Medical Board of California, the Osteopathic Medical Board of California, the California Board of Psychology, or the California Board of Behavioral Sciences. BPC § 729 also applies to alcohol and drug abuse counselors who work under the supervision of psychotherapists and are required to register with, or be certified by, a certifying organization approved by the Department of Health Care Services. As licensees and registrants, these individuals are subject to enforcement action by the appropriate licensing or certifying entity. In contrast, this bill proposes to add members of the clergy who are not licensed or registered with, or subject to discipline by, a state or state-designated entity. Because the only applicable enforcement mechanism for members of the clergy would be criminal punishment, it would be more appropriate for the prohibition for that group to be contained in the Penal Code.

AMENDMENTS:

In response to the implementation issue identified above, amend the bill as follows:

- 1) In the title, in line 1, strike out “amend Section 729 of the Business and Professions” and insert:

add Section 266.6 to the Penal

- 2) In the title, in line 2, strike out “professions.” and insert:

crimes.

- 3) On page 2, before line 1, insert:

SECTION 1. Section 266.6 is added to the Penal Code, to read:

266.6. (a) A member of the clergy providing therapeutic services, or a person holding themselves out to be a member of the clergy providing therapeutic services, who engages in an act of sexual intercourse, sodomy, oral copulation, or sexual contact with a current or former patient, client, or member of the congregation within two years following termination of therapeutic services, if the relationship was terminated primarily for the purpose of engaging in those acts, unless the provider has referred the patient, or client, or member of the congregation to an independent and objective licensed professional or qualified provider of therapeutic services recommended by a third party for treatment, is guilty of sexual exploitation by a member of the clergy.

(b) Consent is not a defense in a criminal action under this section.

(c) Sexual exploitation by a member of the clergy is a public offense that is punishable as follows:

(1) An act in violation of subdivision (a) is punishable by imprisonment in the county jail for a period not exceeding six months, a fine not exceeding one thousand dollars (\$1,000), or by both that fine and imprisonment.

(2) Multiple acts in violation of subdivision (a) with a single victim, if the offender has no prior conviction for sexual exploitation, is punishable by imprisonment in the county jail for a period not exceeding six months, by a fine not exceeding one thousand dollars (\$1,000), or by both that fine and imprisonment.

(3) An act or acts in violation of subdivision (a) with two or more victims is punishable by imprisonment pursuant to subdivision (h) of Section 1170 for a period of 16 months, two years, or three years and by a fine not exceeding ten thousand dollars (\$10,000) or by imprisonment in the county jail for a period not exceeding one year, by a fine not exceeding one thousand dollars (\$1,000), or by both that fine and imprisonment.

(4) Two or more acts in violation of subdivision (a) with a single victim, if the offender has at least one prior conviction for sexual exploitation, is punishable by imprisonment pursuant to subdivision (h) of Section 1170 for a period of 16 months, two years, or three years and a fine not exceeding ten thousand dollars (\$10,000) or by imprisonment in the county jail for a period not exceeding one year, by a fine not exceeding one thousand dollars (\$1,000), or by both that fine and imprisonment.

(5) An act or acts in violation of subdivision (a) with two or more victims, if the offender has at least one prior conviction for sexual exploitation, is punishable by imprisonment pursuant to subdivision (h) of Section 1170 for a period of 16 months, two years, or three years and a fine not exceeding ten thousand dollars (\$10,000).

(d) As used in this section, the following terms have the following meanings:

(1) “Intimate part” and “touching” have the same meanings as defined in Section 243.4.

(2) “Member of the clergy” means 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.

(3) “Sexual contact” means sexual intercourse or the touching of an intimate part of a patient, client, or member of the congregation for the purpose of sexual arousal, gratification, or abuse.

(4) “Therapeutic services” means 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.

(e) In the investigation and prosecution of a violation of this section, no person shall seek to obtain disclosure of a confidential file of another current or former patient, client, or member of the congregation of the member of the clergy.

(f) If a member of the clergy in a professional partnership or similar group has sexual contact with a patient, client, or member of the congregation in violation of this section, another member of the clergy in the partnership or practitioner group is not subject to action under this section solely because of the occurrence of that sexual contact.

SEC. 2. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs that may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.

4) On page 2, strike out lines 1 to 21, inclusive, and strike out pages 3 to 6, inclusive

REGISTERED SUPPORT:

Axia Women INC
Consumer Attorneys of California
Epiphany-me Counselling
Prosopon Healing
Safe to Speak Initiative
Sexual Predator Accountability Institute
Survivor’s Network of those Abused by Priests
Stand With Survivors
38 individuals

REGISTERED OPPOSITION:

ACLU California Action
Californians United for a Responsible Budget
Initiate Justice
Smart Justice California

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