

Date of Hearing: May 6, 2026

ASSEMBLY COMMITTEE ON APPROPRIATIONS

Buffy Wicks, Chair

AB 1739 (Ward) – As Amended April 22, 2026

Policy Committee:	Public Safety	Vote:	7 - 1
	Business and Professions		13 - 2

Urgency: No                      State Mandated Local Program: Yes                      Reimbursable: No

**SUMMARY:**

This bill creates a new crime of sexual exploitation by a member of the clergy, punishable as a misdemeanor or, under specified aggravating circumstances, as an alternate felony-misdemeanor (“wobbler”).

Specifically, this bill:

- 1) Makes it a crime for a member of the clergy providing therapeutic services, or a person holding themselves out as such, to engage in sexual intercourse, sodomy, oral copulation, or sexual contact with a current or former patient, client, or member of the congregation within two years of the termination of therapeutic services, if the relationship was terminated primarily for the purpose of engaging in those acts, unless a specified referral has been made.
- 2) Provides that consent is not a defense.
- 3) Makes a single violation and multiple violations with a single victim (no prior) punishable as a misdemeanor by up to six months in county jail, a fine of up to \$1,000, or both.
- 4) Makes violations involving two or more victims, or two or more violations with a single victim where the offender has a prior sexual exploitation conviction, punishable as a wobbler — as a misdemeanor by up to one year in county jail, a fine of up to \$1,000, or both; or as a felony by 16 months, two years, or three years in county jail under Penal Code section 1170(h), and a fine of up to \$10,000.
- 5) Makes violations involving two or more victims, where the offender has a prior sexual exploitation conviction, a straight felony punishable by 16 months, two years, or three years under Penal Code section 1170(h), and a fine of up to \$10,000.

**FISCAL EFFECT:**

- 1) Unknown, likely minor ongoing incarceration costs (General Fund, local funds), depending on the number of prosecutions and convictions, and whether the crimes are prosecuted as felonies or as misdemeanors. The average annual cost to incarcerate one person in county jail is approximately \$29,000, though costs are higher in larger counties. The Legislative Analyst’s Office estimates the average annual cost to incarcerate one person in state prison is \$128,000. CDCR estimates the annual cost is \$135,921. County incarceration costs are not subject to reimbursement by the state. However, overcrowding in county jails creates cost

pressure on the General Fund because the state has historically granted new funding to counties to offset overcrowding resulting from public safety realignment.

- 2) Unknown, potentially moderate costs to the trial courts (Trial Court Trust Fund, General Fund) for adjudicating the new offense. Prosecutions are likely to be factually complex, involving disputes over whether the clergy member was providing “therapeutic services” as defined and whether the relationship was terminated primarily for the purpose of engaging in prohibited conduct. The bill’s confidential-file provision limiting discovery of other congregants’ files may also generate pretrial motion workload. It generally costs approximately \$1,000 to operate a courtroom for one hour. Although courts are not funded on the basis of workload, increased pressure on the Trial Court Trust Fund may create a demand for increased funding for courts from the General Fund. The state budget provides annual General Fund backfills to the Trial Court Trust Fund to offset revenue reductions, totaling approximately \$117.3 million in 2025-26.

The Legislative Analyst’s Office has projected General Fund structural deficits of approximately \$35 billion per year beginning in the 2027-28 fiscal year.

#### COMMENTS:

- 1) **Purpose.** 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.

- 2) **Background.** Members of the clergy who provide counseling to members of their congregations occupy a position of trust that can carry characteristics similar to those of a licensed mental health professional — personal confidences shared, behavioral guidance provided, and a pronounced power imbalance between the provider and the person seeking guidance. California law recognizes that imbalance in other contexts. Business and Professions Code section 729 makes it a crime for a physician and surgeon, psychotherapist, research psychoanalyst, student research psychoanalyst, or alcohol and drug abuse counselor to engage in 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. Consent is not a defense. Section 729 is punishable as a misdemeanor for a single violation and as a wobbler for specified aggravating circumstances.

Members of the clergy, however, are generally exempt from licensure laws when performing counseling services as part of their pastoral or professional duties, provided they do not hold themselves out as licensed practitioners. They are therefore not covered by Section 729 and are not subject to state licensure or administrative discipline for sexual contact with congregants to whom they have provided counseling.

This bill creates a new Penal Code section 266.6 to fill that gap. The new offense tracks the elements and penalty structure of section 729 but applies to members of the clergy providing “therapeutic services,” defined to include counseling, mental health guidance, spiritual counseling involving the treatment of emotional, psychological, or behavioral conditions, and other services substantially similar to psychotherapy. Section 729 prosecutions themselves are uncommon. Recent CDCR data indicates that 34 people are currently in state custody with a section 729 violation as a secondary offense, and none in state custody with section 729 as a primary offense — suggesting that sexual exploitation charges under section 729 are most often filed alongside, and sentenced subordinate to, a more serious underlying offense such as sexual assault or rape.

- 3) **Support and Opposition.** The bill is supported by numerous survivors’ rights groups and private individuals, who argue that clergy who provide therapeutic services occupy positions of trust analogous to those of licensed mental health professionals and should be subject to the same criminal prohibitions on exploitation. The bill is opposed by ACLU California Action, criminal justice groups, and public defenders. The ACLU argues that criminalizing consensual sexual contact between adults represents government overreach into intimate matters and that existing law already criminalizes non-consensual sexual contact.

**Analysis Prepared by:** Shiran Zohar / APPR. / (916) 319-2081