

Date of Hearing: March 10, 2026  
Deputy Chief Counsel: Stella Choe

ASSEMBLY COMMITTEE ON PUBLIC SAFETY  
Nick Schultz, Chair

AB 1741 (Pacheco) – As Introduced February 5, 2026

**As Proposed to be Amended in Committee**

**SUMMARY:** Makes sexual battery when committed after having entered an inhabited dwelling, without consent, punishable as an alternate felony-misdemeanor. Specifically, **this bill:**

- 1) States that every person who commits a sexual battery offense after having entered, without consent, an inhabited dwelling house, trailer coach, or the inhabited portion of any other building is guilty of an alternate felony-misdemeanor.
- 2) Punishes a violation of the above by imprisonment in a county jail for not more than one year, and a fine not exceeding \$2,000; or by imprisonment in the state prison for two, three, or four years, and by a fine not exceeding \$10,000.

**EXISTING LAW:**

- 1) States that any person who touches the intimate body part of another person while that person is unlawfully restrained by the accused or accomplice, and if the touching is against the will of the person touched and is for the purpose of sexual arousal, sexual gratification, or sexual abuse, is guilty of sexual battery. This act is punishable as an alternate felony-misdemeanor by imprisonment in a county jail for not more than one year, and by a fine not exceeding \$2,000; or by imprisonment in the state prison for 2, 3, or 4 years, and by a fine not exceeding \$10,000. (Pen. Code, § 243.4, subd. (a).)
- 2) States that sexual battery of another person who is institutionalized for medical treatment and who is seriously disabled or medically incapacitated is punishable as an alternate felony-misdemeanor by imprisonment in a county jail for not more than one year, and by a fine not exceeding \$2,000; or by imprisonment in the state prison for 2, 3, or 4 years, and by a fine not exceeding \$10,000. (Pen. Code, § 243.4, subd. (b).)
- 3) States that sexual battery of another person when the perpetrator fraudulently represented that the touching served a professional purpose is punishable as an alternate felony-misdemeanor by imprisonment in a county jail for not more than one year, and by a fine not exceeding \$2,000; or by imprisonment in the state prison for 2, 3, or 4 years, and by a fine not exceeding \$10,000. (Pen. Code, § 243.4, subd. (c).)
- 4) States that sexual battery while that person is unlawfully restrained either by the accused or an accomplice, or is institutionalized for medical treatment and is seriously disabled or medically incapacitated, to masturbate or touch an intimate part of either of those persons or a third person is punishable as an alternate felony-misdemeanor by imprisonment in a county jail for not more than one year, and by a fine not exceeding \$2,000; or by imprisonment in

the state prison for 2, 3, or 4 years, and by a fine not exceeding \$10,000. (Pen. Code, § 243.4, subd (d).)

- 5) Makes all other types of sexual battery, including causing a person to masturbate or touch an intimate part of those persons or a third person against the victim's will, punishable as a misdemeanor by a fine not exceeding \$2,000, or by imprisonment in a county jail not exceeding six months, or by both that fine and imprisonment. (Pen. Code, § 243.4, subd. (e)(1).)
- 6) Provides that "touches," for the purpose of sexual battery, means physical contact with another person, whether accomplished directly, through the clothing of the person committing the offense, or through the clothing of the victim. (Pen. Code, § 243.4, subd. (e)(2).)
- 7) Defines "intimate part" for purposes of sexual battery as the sexual organ, anus, groin, or buttocks of any person, and the breast of a female. (Pen. Code, § 243.4, subd. (g)(1).)
- 8) Specifies that "sexual battery" does not include rape or sexual penetration. (Pen. Code, §243.4, subd. (g)(2).)
- 9) Requires a person convicted of sexual battery to register as a sex offender. (Pen. Code, § 290, subd. (c).)
- 10) Specifies that the punishment for indecent exposure after having entered, without consent, an inhabited dwelling house, or trailer coach, or the inhabited portion of any other building, is either imprisonment in the state prison, or in the county jail not exceeding one year. (Pen. Code, § 314.)
- 11) Specifies that the punishment for annoying or molesting a child under 18 after having entered, without consent, an inhabited dwelling house, or trailer coach, or the inhabited portion of any other building, is either by imprisonment in the state prison, or in a county jail not exceeding one year, and by a fine not exceeding \$5,000. (Pen. Code, § 647.6, subd. (b).)
- 12) Provides that every person who enters any house, room, apartment, tenement, shop, warehouse, store, mill, barn, stable, outhouse or other building, tent, vessel, floating home, railroad car, locked or sealed cargo container, any house car, inhabited camper, vehicle when the doors are locked, aircraft, or mine or any underground portion thereof, with intent to commit grand or petit larceny or any felony is guilty of burglary. (Pen. Code, § 459, subd. (a).)
- 13) Defines "inhabited" for purposes of burglary to mean currently being used for dwelling purposes, whether occupied or not. (*Ibid.*)
- 14) States that every burglary of an inhabited dwelling house, vessel which is inhabited and designed for habitation, floating home, or trailer coach, or the inhabited portion of any other building, is burglary of the first degree. (Pen. Code, § 460, subd. (a).)

**FISCAL EFFECT:** Unknown

**COMMENTS:**

- 1) **Author's Statement:** According to the author, “Current gaps in California’s Penal Code allow some cases of sexual battery committed during a residential break-in to be charged only as misdemeanors unless additional factors are present. This means that someone who enters a home and sexually touches a victim may avoid felony charges simply because they did not intend to steal or commit another felony.

“That outcome does not reflect the seriousness of invading a person’s home to commit a sexual offense. A person’s home should be a place of safety and privacy. Entering that space to commit sexual battery is an extreme violation of personal autonomy and security.

“AB 1741 closes this loophole by ensuring that sexual battery committed during a home break-in may be charged as a felony wobbler, giving prosecutors and courts discretion to seek penalties that reflect the severity of the crime. The bill does not change the definition of sexual battery; it ensures that when this conduct occurs in the context of a residential intrusion, the law recognizes the heightened harm of the offense.”

- 2) **Sexual Battery Law:** The sexual battery statute, Penal Code section 243.4, includes five subdivisions that define sexual battery based on the defendant’s conduct and set the punishment for each respective situation.

Subdivisions (a), (b), and (c) cover situations where the defendant touches the intimate parts of the victim. These subdivisions require that the victim be unlawfully restrained, institutionalized for medical treatment, or not conscious of the sexual nature of the act because of a fraudulent representation. (*People v. Elam* (2001) 91 Cal.App.4th 298, 310.) Subdivisions (a), (b), and (c) are wobblers, i.e., either a felony or misdemeanor. (*People v. Dayan* (1995) 34 Cal.App.4th 707, 715, fn. 4; Pen. Code, § 17.)

Subdivision (d) proscribes conduct different from the other sexual batteries. Subdivision (d) covers the situation where the defendant causes the victim to masturbate or touch the intimate part of the defendant or another person. Subdivision (d) is a wobbler, and like the other wobblers, subdivision (d) requires that the victim is unlawfully restrained or institutionalized for medical treatment, and the “touching” requires the victim to touch the skin of the defendant or another person’s intimate parts. (Pen. Code, § 243.4, subs. (d) & (f); *People v. Elam* (2001), *supra*, at p. 310; see also CALCRIM No. 953.)

Subdivision (e) is misdemeanor sexual battery. This subdivision covers situations where the defendant touches the intimate parts of the victim. For misdemeanor sexual battery, unlike subdivisions (a), (b), and (c), there is no requirement that the victim be unlawfully restrained, institutionalized for medical treatment, or not conscious of the sexual nature of the act. (*People v. Dayan* (1995) 34 Cal. App. 4th 707, 715-716.) These differences make the misdemeanor definition broader than the wobbler definition and as such, subdivision (e) proscribes a wider variety of conduct than subdivisions (a), (b), and (c).

This bill adds to the existing sexual battery statute a circumstance where a person commits an act of sexual battery after having entered an inhabited dwelling without consent. This offense would be punishable as a wobbler.

- 3) **Effect of this Legislation:** An existing statute that could potentially be used to punish this conduct is subdivision (b) of Penal Code section 220 which makes a person who, in the commission of a burglary of the first degree, assaults another with intent to commit rape, sodomy, oral copulation, lewd and lascivious acts, or sexual penetration. This crime is punishable by imprisonment in the state prison for life without the possibility of parole.

This bill increases the punishment for sexual battery when the conduct occurred after entering another person's residence without their consent. Depending on the circumstances, this conduct may not rise to the level of first-degree burglary which requires evidence that the defendant entered a dwelling place with intent to commit larceny or any felony. (Pen. Code, § 459 and 460.) The sponsor of this bill argues that because a person who enters a dwelling place to commit misdemeanor sexual battery does not have the intent to commit larceny or a felony, that the person may not be guilty of existing laws on burglary or burglary with intent to commit specified sex crimes. If there was any evidence that the defendant restrained the victim to accomplish the sexual battery or tried to get the victim to touch the defendant for purposes of sexual arousal, the defendant could be charged with a felony and the existing burglary laws. (Pen. Code, § 243.4, subs. (a) & (d).) This bill would punish sexual battery when committed after entering an inhabited dwelling, without consent, as a wobbler.

There are similar provisions in existing law that punishes indecent exposure (Pen. Code, § 314) and annoying or molesting a minor (Pen. Code, § 647.6, subd. (b)), which are generally punished as misdemeanors, or as wobblers when committed after entering an inhabited dwelling without consent. In interpreting the inhabited dwelling provision in Penal Code 647.6, the appellate court in *People v. Mendoza* (2004) 118 Cal.App.4th 571, provided the following background and rationale of the amended laws:

The dwelling house provision was added to section 647.6 (then section 647a) in 1982 by the same enactment that added identical language to California's indecent exposure law, section 314. (Stats. 1982, ch. 1113, §§ 2–3, p. 4032.) By this amendment, the Legislature treated residential indecent exposure and child molestation more seriously than such acts occurring in other environments “in recognition of the sanctity of one's residence and the inherent danger presented by residential intruders.” (*People v. Rehmyer* (1993) 19 Cal.App.4th 1758, 1768 [24 Cal.Rptr.2d 321] [discussing legislative intent underlying amendment to section 314].)

(*Id.* at p. 575.) While the court found that the act does not need to occur inside the inhabited dwelling to warrant a conviction, only that the act occur after entry into an inhabited dwelling without consent, the court ruled that “a clear nexus between the residential entry and the molesting conduct is required.” (*Id.* at p. 576.)

By punishing this type of sexual battery as a wobbler, it could also indirectly expand the circumstances under which first degree burglary could be charged because the burglary statute punishes the entering of an inhabited dwelling with the intent to commit larceny or a felony.

- 4) **Argument in Support:** According to the *Riverside County District Attorney's Office*, the sponsor of this bill, “While burglary statutes and certain sex offense statutes provide strong

penalties, they fail to cover scenarios where an offender enters a home solely to commit sexual battery without intent to steal or commit another felony.

“For instance, under Penal Code section 647.6 (annoy/molest a child) and Penal Code section 314 (indecent exposure), if an individual breaks into a victim’s home to commit these sex offenses, they may be charged with a felony wobbler offense. By contrast, if an individual breaks into a victim’s home and sexually touches the victim (Penal Code 243.4), they cannot be charged with a felony wobbler offense. Unless the victim is under 15, or we can prove there was restraint or an intent to commit rape, this sex offender can only be charged with misdemeanor sexual battery. Quite simply, this makes no sense.

“As prosecutors, we have encountered cases where an assailant breaks into a victim’s home at night and gropes a sleeping victim. In one such Riverside County case, a victim was asleep in her bedroom with her husband when an unknown male entered their apartment via a sliding glass door. The victim awoke to the unknown male rubbing her buttocks. Due to current limitations in the statute, this egregious act could only be prosecuted as a misdemeanor. This loophole undermines public safety and denies justice to victims of deeply invasive crimes.

“AB 1741 closes this loophole by amending Penal Code Section 243.4 to allow felony wobbler charges when sexual touching occurs after a residential break-in. This change ensures that prosecutors have the necessary tools to pursue the proper penalties for offenders who violate a victim’s bodily autonomy within their most sacred haven – home.”

- 5) **Argument in Opposition:** According to the *California Public Defenders Association*, “Under the scenario offered by the bill’s sponsors, “An assailant breaks into a victim’s home who is sleeping and sexually touches the victim ” individuals are charged everyday by prosecutors in California with a violation of Penal Code section 220 (assaulting another with the intent to commit mayhem, rape, sodomy, oral copulation) which is punishable by two, four or six years in state prison. It is also frequently charged as an attempted rape. As public defenders who represent 80-90% of all criminal defendants in California we have a unique overview of the charging of criminal offenses.

“We also oppose this bill because it is vague on temporal and definitional grounds creating a potential felony requiring sex registration even if the person entered the inhabited dwelling without the intent to commit a sexual battery and the sexual battery occurs hours or days later. By contrast, to be guilty of a residential burglary, the person must enter an inhabited dwelling with the intent to commit a felony. Moreover, there is no legal definition of “guest”. If a friend is invited to someone’s house and brings another person, is the other person a guest?

“AB 1741 is overbroad casting too large of a net. If a person attends a large party at the home of someone they do not know, along with a group of friends who were invited to the party, and then later commits a misdemeanor sexual battery at the party, their misdemeanor conduct could be charged as a felony simply because it occurred inside of a house and the person might not be considered a guest.”

- 6) **Related Legislation:** None

**7) Prior Legislation:**

- a) SB 848 (Soria), Chapter 625, Statutes of 2025, provided that in the case of a felony conviction for sexual battery, the fact that the defendant was employed at a hospital where the offense occurred and the victim was in the defendant's care or seeking medical care at the hospital is a factor in aggravation in sentencing.
- b) SB 442 (Limon), Chapter 981, Statutes of 2024, expanded the definition of misdemeanor sexual battery to include when a person for the purpose of sexual arousal causes another, against their will, to masturbate or touch an intimate part of either of those persons or a third person.
- c) SB 1421 (Romero), Chapter 302, Statutes of 2002, made touching an intimate part of another person for the purpose of sexual arousal, sexual gratification, or sexual abuse, if the victim is at the time unconscious of the nature of the act because the perpetrator fraudulently represented that the touching served a professional purpose, a sexual battery.

**REGISTERED SUPPORT / OPPOSITION:****Support**

Arcadia Police Officers' Association  
Brea Police Association  
Burbank Police Officers' Association  
California Association of School Police Chiefs  
California Coalition of School Safety Professionals  
California Crime Victims Assistance Association  
California District Attorneys Association  
California Narcotic Officers' 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 County District Attorney  
Riverside Police Officers Association  
Riverside Sheriffs' Association

**Opposition**

ACLU California Action  
California Attorneys for Criminal Justice  
California Public Defenders Association  
Ella Baker Center for Human Rights  
Justice2jobs Coalition  
LA Defensa  
Local 148 LA County Public Defenders Union  
San Francisco Public Defender

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