

Date of Hearing: April 8, 2026

ASSEMBLY COMMITTEE ON APPROPRIATIONS

Buffy Wicks, Chair

AB 1741 (Pacheco) – As Amended March 11, 2026

Policy Committee: Public Safety

Vote: 9 - 0

Urgency: No

State Mandated Local Program: Yes

Reimbursable: No

SUMMARY:

This bill makes sexual battery when committed after having entered an inhabited dwelling, without consent, punishable as an alternate felony-misdemeanor. If a misdemeanor, the punishment may not exceed one year imprisonment in county jail and a \$2,000 fine; if a felony, the punishment may not exceed imprisonment in the state prison for two, three, or four years, and a \$10,000 fine.

FISCAL EFFECT:

Incarceration costs (local funds, General Fund) to the counties and the California Department of Corrections and Rehabilitation. Actual incarceration costs will depend on the number of convictions, the length of each sentence, and whether each sentence must be served in county jail or state prison.

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. The state must reimburse these LEA costs from the General Fund if the Commission on State Mandates determines the duties imposed by this bill constitute a reimbursable state mandate.

The Legislative Analyst's Office recently warned of General Fund structural deficits of around \$35 billion per year in the 2027-28 fiscal year and ongoing.

COMMENTS:

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. 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.

Under existing law, such conduct may not qualify as first-degree burglary because burglary requires proof that the defendant entered the dwelling with the intent to commit larceny or another felony. If the underlying conduct is only misdemeanor sexual battery under Penal Code

section 243.4, prosecutors may be unable to charge burglary even when the offense occurs after an unlawful residential entry. The bill addresses this gap by making sexual battery committed after entering an inhabited dwelling without consent a “wobbler,” meaning it may be prosecuted either as a misdemeanor or a felony depending on the circumstances.

By elevating this conduct to a potential felony, the bill also aligns sexual battery with existing statutes that impose enhanced penalties when certain sex-related offenses occur after a residential intrusion, such as indecent exposure and annoying or molesting a minor, which recognize the heightened harm and danger posed by residential intrusions. In addition, because burglary can be charged when a person enters a dwelling with intent to commit a felony, making this offense a wobbler could indirectly expand the circumstances under which first-degree burglary may be charged if prosecutors can show the defendant entered the residence with the intent to commit felony sexual battery.

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