

ASSEMBLY THIRD READING
AB 1741 (Pacheco)
As Amended March 11, 2026
Majority vote

SUMMARY

Makes sexual battery when committed after having entered an inhabited dwelling, without consent, punishable as an alternate felony-misdemeanor.

Major Provisions

- 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.

COMMENTS

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."

Arguments 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."

Arguments 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."

FISCAL COMMENTS

According to the Assembly Appropriations Committee, "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."

VOTES

ASM PUBLIC SAFETY: 9-0-0

YES: Schultz, Alanis, Mark González, Haney, Harabedian, Lackey, Nguyen, Ramos, Sharp-Collins

ASM APPROPRIATIONS: 15-0-0

YES: Wicks, Hoover, Aguiar-Curry, Calderon, Caloza, Dixon, Fong, Mark González, Krell, Pacheco, Pellerin, Sharp-Collins, Solache, Ta, Tangipa

UPDATED

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CONSULTANT: Stella Choe / PUB. S. / (916) 319-3744

FN: 0002809