

THIRD READING

Bill No: AB 1741
Author: Pacheco (D)
Amended: 6/17/26 in Senate
Vote: 21

SENATE PUBLIC SAFETY COMMITTEE: 6-0, 6/16/26
AYES: Arreguín, Seyarto, Caballero, Cortese, Pérez, Wiener

SENATE APPROPRIATIONS COMMITTEE: 7-0, 8/13/26
AYES: Cervantes, Seyarto, Cabaldon, Dahle, Grayson, Richardson, Wahab

ASSEMBLY FLOOR: 70-0, 5/22/26 - See last page for vote

SUBJECT: Sexual battery

SOURCE: Riverside District Attorney's Office

DIGEST: This bill makes sexual battery, when committed after having entered an inhabited dwelling without consent, punishable as an alternate felony-misdemeanor.

ANALYSIS:

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. (Penal [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 of a person 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, 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 that 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).)

This bill:

- 1) Makes sexual battery when committed after having entered an inhabited dwelling or trailer coach, as defined, or the inhabited portion of any other building without consent an alternate felony-misdemeanor.
- 2) Requires that the sexual battery be committed in the dwelling house, trailer coach, or inhabited portion of any other building for this provision to apply.

Background

California’s 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 while the victim is unlawfully restrained, institutionalized for medical treatment, or not conscious of the sexual nature of the act because of a fraudulent representation. (Pen. Code, § 243.4, subds. (a)-(c).) Subdivisions (a), (b), and (c) are wobblers (i.e., either a felony or misdemeanor).

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, subds. (d), (f).)

Subdivision (e) is misdemeanor sexual battery. (Pen. Code, § 243.4, subd. (e).) 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. 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).

Additionally, 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).) “Inhabited” for purposes of burglary means currently being used for dwelling purposes, whether occupied or not. (*Ibid.*) 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).)

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. This bill requires that the sexual battery be committed in the dwelling for this provision to apply.

Notably, there is already an existing statute that may be used to punish this conduct. Subdivision (b) of Penal Code section 220 makes a person who assaults another with intent to commit rape, sodomy, oral copulation, lewd and lascivious acts, or sexual penetration guilty of a felony. This crime is punishable by imprisonment in the state prison for two, four, or six years. If the victim is under 18 years of age, the punishment is five, seven, or nine years. If the person commits this crime via first degree burglary, the punishment is life with the possibility of parole. For example, in one case in Fresno, a man entered an occupied home and groped a woman as she slept. He was charged with felony assault with intent to commit a sex offense. (*Fresno Man Arrested for Home Invasion, Groping Sleeping Woman*, GV Wire (July 18, 2025) <<https://gvwire.com/2025/07/18/fresno-man-arrested-for-home-invasion-groping-sleeping-woman/> [as of Jun. 5, 2026].)

FISCAL EFFECT: Appropriation: No Fiscal Com.: Yes Local: Yes

According to the Senate Appropriations Committee:

Unknown costs to the California Department of Corrections and Rehabilitation (CDCR) to incarcerate if the felony sentence is imposed. Unknown costs to the counties to incarcerate if a one year misdemeanor sentence is imposed. Unknown, potentially significant costs to the courts to adjudicate new penalties depending on many unknowns, including the numbers of people charged and the factors unique to each case. Likely minor and absorbable costs to local law enforcement agencies for increased reporting of sex offender data to the Department of Justice Megan's Law website (local funds).

SUPPORT: (Verified 8/13/26)

Riverside County District Attorney Office (source)
California District Attorneys Association
California State Sheriffs' Association
Los Angeles County Sheriff's Department

OPPOSITION: (Verified 8/13/26)

ACLU California Action
California Public Defenders Association
Ella Baker Center for Human Rights
Initiate Justice
Local 148 Los Angeles County Public Defender's Union

ASSEMBLY FLOOR: 70-0, 5/22/26

AYES: Addis, Aguiar-Curry, Ahrens, Alanis, Alvarez, Ávila Farías, Bains, Bauer-Kahan, Bennett, Berman, Boerner, Bonta, Calderon, Caloza, Carrillo, Castillo, Connolly, Davies, DeMaio, Dixon, Ellis, Flora, Fong, Gallagher, Gipson, Jeff Gonzalez, Mark González, Hadwick, Haney, Harabedian, Hart, Hoover, Irwin, Jackson, Johnson, Kalra, Krell, Lackey, Lee, Lowenthal, Macedo, McKinnor, Muratsuchi, Nguyen, Ortega, Pacheco, Papan, Patel, Patterson, Petrie-Norris, Quirk-Silva, Ramos, Ransom, Michelle Rodriguez, Rogers, Blanca Rubio, Sanchez, Schiavo, Schultz, Sharp-Collins, Solache, Soria, Stefani, Tangipa, Valencia, Wallis, Ward, Wilson, Zbur, Rivas

NO VOTE RECORDED: Arambula, Bryan, Chen, Elhawary, Gabriel, Garcia, Pellerin, Celeste Rodriguez, Ta, Wicks

Prepared by: Marshal Lawler / PUB. S. /
8/15/26 12:03:12

**** END ****