

Date of Hearing: April 21, 2026

Counsel: Ilan Zur

ASSEMBLY COMMITTEE ON PUBLIC SAFETY

Nick Schultz, Chair

AB 1806 (Gabriel) – As Amended March 16, 2026

SUMMARY: Requires a state prosecutor to conduct an independent investigation into a federal immigration enforcement officer-involved shooting of a civilian. Specifically, **this bill:**

- 1) Requires a state prosecutor to conduct an independent, transparent, and thorough investigation into incidents of a federal immigration enforcement officer-involved shooting of a civilian.
- 2) Requires the state prosecutor to do all of the following:
 - a) Investigate and gather facts in an incident involving a shooting by a federal immigration enforcement officer.
 - b) For all investigations conducted, prepare and submit a written report, which shall include, at a minimum, a statement of the facts and a detailed analysis and conclusion for each investigatory issue.
 - c) If criminal charges against the involved officer are found to be warranted, initiate and prosecute a criminal action against the officer.
- 3) Requires the state prosecutor to post and maintain on a public internet website each written report prepared by the state prosecutor, as specified, appropriately redacting any information in the report that is required by law to be kept confidential.
- 4) Specifies that the Attorney General (AG) is the state prosecutor unless otherwise specified or named.
- 5) Specifies that this does not limit the AG's authority under the California Constitution or any applicable state law.
- 6) Includes a severability clause.

EXISTING FEDERAL LAW

- 1) Provides that in any civil action or criminal prosecution that is commenced in a state court and that is against the United States (U.S.) or any officer of the U.S., in an official or individual capacity, for any act under color of such office or on account of any right or authority claimed under any Act of Congress for the apprehension or punishment of criminals or the collection of the revenue, may be removed by them to the district court of the U.S., as specified (28 U.S.C. § 1442(a).)

- 2) Provides, solely for purposes of determining removal, a law enforcement officer, who is the defendant in a criminal prosecution, shall be deemed to have been acting under the color of his office if the officer:
 - a) Protected an individual in the presence of the officer from a crime of violence.
 - b) Provided immediate assistance to an individual who suffered, or who was threatened with, bodily harm; or
 - c) Prevented the escape of any individual whom the officer reasonably believed to have committed, or was about to commit, in the presence of the officer, a crime of violence that resulted in, or was likely to result in, death or serious bodily injury. (28 U.S.C. § 1442(c).)

EXISTING STATE LAW:

- 1) Specifies that, subject to the powers and duties of the Governor, the AG shall be the chief law officer of the State. (Cal. Const., art. 5, § 13.)
- 2) States that it shall be the duty of the AG to see that the laws of the State are uniformly and adequately enforced. (Cal. Const., art. 5, § 13.)
- 3) Provides that the AG shall have direct supervision over every district attorney and sheriff and over such other law enforcement officers as may be designated by law, in all matters pertaining to the duties of their respective offices, and may require any of said officers to make reports concerning the investigation, detection, prosecution, and punishment of crime in their perspective jurisdictions as to the AG may seem advisable. (Cal. Const., art. 5, § 13.)
- 4) Specifies, whenever in the opinion of the AG any law of the State is not being adequately enforced in any county, it shall be the duty of the AG to prosecute any violations of law of which the superior court shall have jurisdiction, and in such cases the AG shall have all the powers of a district attorney. (Cal. Const., art. 5, § 13.)
- 5) Specifies that when the AG deems it advisable or necessary in the public interest, or when directed to do so by the Governor, the AG shall assist any district attorney in the discharge of the district attorney's duties, and may, if deemed necessary, take full charge of any investigation or prosecution of violations of law of which the superior court has jurisdiction, and that in this respect the AG has all the powers of a district attorney, including the power to issue or cause to be issued subpoenas or other process. (Gov. Code, § 12550.)
- 6) Provides that the AG has direct supervision over the sheriffs of the several counties of the state, and may require of them written reports concerning the investigation, detection, and punishment of crime in their respective jurisdictions, and provides, whenever the AG deems it necessary in the public interest the AG shall direct the activities of any sheriff relative to the investigation or detection of crime within the jurisdiction of the sheriff, and may direct the service of subpoenas, warrants of arrest, or other processes of court in connection therewith. (Gov. Code, § 12560.)

- 7) Requires a state prosecutor to investigate incidents of an officer-involved shooting resulting in the death of an unarmed civilian and specifies that the AG is the state prosecutor unless otherwise specified or named. (Gov. Code, § 12525.3, subd. (b)(1).)
- 8) Authorizes the state prosecutor to do all of the following:
 - a) Investigate and gather facts in an incident involving a shooting by a peace officer that results in the death of a civilian if the civilian was unarmed or if there is a reasonable dispute as to whether the civilian was armed.
 - b) For all investigations conducted, prepare and submit a written report, which shall include, at a minimum, a statement of the facts, a detailed analysis and conclusion for each investigatory issue, and recommendations to modify the policies and practices of the law enforcement agency, as applicable. (Gov. Code, § 12525.3, subd. (b)(2)(A)-(B).)
 - c) If criminal charges against the involved officer are found to be warranted, initiate and prosecute a criminal action against the officer. (Gov. Code, § 12525.3, subd. (b)(2)(C).)
- 9) Requires the state prosecutor to post and maintain on a public internet website each written report prepared by the state prosecutor, as specified, appropriately redacting any information in the report that is required by law to be kept confidential. (Gov. Code, § 12525.3, subd. (b)(3).)
- 10) Specifies that commencing on July 1, 2023, the AG shall operate a Police Practices Division within the DOJ to, upon request of a local law enforcement agency, review the use of deadly force policies of that law enforcement agency. (Gov. Code, § 12525.3, subd. (c)(1).)
- 11) Requires the Police Practices Division to make specific and customized recommendations to any law enforcement agency that requests a review, based on those policies identified as recommended best practices. (Gov. Code, § 12525.3, subd. (c)(2).)
- 12) Provides that none of the above limits the AG's authority under the California Constitution or any applicable state law. (Gov. Code, § 12525.3, subd. (d).)
- 13) Requires each law enforcement agency to monthly furnish to the DOJ, in a manner defined and prescribed by the AG, a report of all instances when a peace officer employed by that agency is involved in any of the following:
 - a) An incident involving the shooting of a civilian by a peace officer.
 - b) An incident involving the shooting of a peace officer by a civilian.
 - c) An incident in which the use of force by a peace officer against a civilian results in serious bodily injury or death.
 - d) An incident in which the use of force by a civilian against a peace officer results in serious bodily injury or death. (Gov. Code, § 12525.2, subd. (a).)

- 14) Requires, for each incident described above, the information reported to the DOJ to include specified information including the gender, race, and age of each individual who was shot, injured, or killed, the date, time, and location of the incident, the type of force used against the officer, the civilian, or both, the reason for using force, the injuries sustained, and if any medical aid was rendered, among other categories of information. (Gov. Code, § 12525.2, subd. (b).)
- 15) Provides that, notwithstanding any other law, United States Immigration and Customs Enforcement (ICE) officers and United States Customs and Border Protection (CBP) officers are not California peace officers. (Pen. Code, § 830.85.)

FISCAL EFFECT: Unknown

COMMENTS:

- 1) **Author's Statement:** According to the author, “California must take decisive action to ensure accountability when federal immigration agents use deadly force against civilians. AB 1806 would grant the California Attorney General clear authority to investigate any shooting incidents involving federal immigration agents and members of the public. The state has both a moral and legal obligation to protect its residents and uphold the rule of law.”
- 2) **Effect of this Bill:** This bill is modelled after a provision of California law that requires the AG to investigate peace officer-involved shootings. Under current law, the AG is required to investigate incidents of officer-involved shootings resulting in the death of an unarmed civilian. (Gov. Code, § 12525.3, subd. (b)(1).) Specifically, the AG is authorized to investigate and gather facts in an incident involving a shooting by a peace officer that results in the death of a civilian if the civilian was unarmed or if there is a reasonable dispute as to whether the civilian was armed, prepare a written report that includes specified information, and prosecute a criminal action against the officer if criminal charges against the involved officer are found to be warranted. (Gov. Code, § 12525.3, subd. (b)(2)(A)-(C).) This investigatory authority generally applies to “an officer-involved shooting,” although later, the statute refers to the investigation of a “shooting by a peace officer.” This suggests that this investigation authority is limited to shootings committed by California peace officers. United States Immigration and Customs Enforcement (ICE) officers and United States Customs and Border Protection (CBP) officers are not California peace officers. (Pen. Code, § 830.85.)

This bill establishes substantially similar provisions, specific to shootings by federal immigration officers. It requires the AG to conduct an independent, transparent, and thorough investigation into incidents of a federal immigration enforcement officer-involved shooting of a civilian. This broadly applies to any federal immigration officer-involved shooting. Unlike the AG investigations of peace officer shootings, this bill does not require that the federal immigration officer-involved shooting result in death, or that the civilian be unarmed. To maintain consistency in the law and to protect against a possible discrimination-based Supremacy Clause claim that this bill treats federal officers differently than state peace officers, the author may wish to limit this investigation requirement to shootings involving the deaths of unarmed civilians.

It additionally requires the AG to investigate and gather facts in an incident involving a shooting by a federal immigration enforcement officer and prepare and submit a written

report that includes a statement of the facts and a detailed analysis and conclusion for each investigatory issue. If criminal charges against the involved officer are found to be warranted, the AG would be required to initiate and prosecute a criminal action against the officer. Unlike the existing provision relating to AG investigations of peace officer-involved shootings, this bill makes it *mandatory*, rather than discretionary, for the AG to investigate and gather facts for the incident, prepare and submit a written report, and prosecute criminal action against the officer if criminal charges are warranted. Again, to maximize the likelihood of this bill surviving a potential legal challenge, the author may wish to align the provisions of this bill with comparable provisions that apply to California peace officers. Doing so may avoid creating a more stringent mandate to prosecute federal officer-involved shootings, while giving discretion over whether to prosecute state peace officer-involved shootings.

Finally, this bill requires the AG to post and maintain on a public internet website each written report prepared by the AG, as specified, redacting any information in the report that is required by law to be kept confidential. It also provides that this does not limit the AG's authority under the California Constitution or any applicable state law.

- 3) **State Prosecution of a Federal Officer-Involved Shooting:** An AG's effort to prosecute a federal immigration enforcement officer for a shooting committed during their immigration enforcement duties may end up being litigated in federal court. Under federal law, any state criminal prosecution of a federal officer, for any act under color of such offense, may be removed to a U.S. district court. (28 U.S.C. § 1442(a).) For purposes of determining whether removal is permitted, a defendant officer is deemed to have been acting under color of their office if they: 1) protected an individual in the presence of the officer from violence; 2) provided immediate assistance to an individual who suffered, or was threatened with bodily harm; or 3) prevented the escape of an individual the officer reasonably believed committed, or was going to commit, a crime of violence that resulted in, or was likely to result in, death or serious bodily injury. (28 U.S.C. § 1442(c).)

Whether the AG will be able to effectively prosecute federal immigration officer-involved shootings, as required by this bill when criminal charges are warranted, will depend upon the facts of the specific case and the reasonableness of the immigration officer's actions. The ability of state prosecutors to prosecute federal law enforcement officers is largely governed by the Supremacy Clause immunity established by a 1890 Supreme Court Case called *In Re Neagle*. In that case, a local California sheriff arrested a federal marshal assigned to protect a federal judge, who shot and killed a man who attacked the judge he was assigned to protect. (*In re Neagle* (1890) 135 U.S. 1, 52-53.) The U.S. Supreme Court ultimately ruled that he was immune from prosecution and could not be guilty of a crime under California law because he did "no more than what was necessary and proper for him to do." (*Id.* at p. 75) Phrased differently, federal immunity will protect a federal agent from state prosecution if the "acts are both (1) authorized by the laws of the United States and (2) necessary and proper to the execution of his responsibilities." (*Morgan v. California* (9th Cir. 1984) 743 F.2d 728, 731.) The necessary and proper standard requires a showing that the defendant "had an honest and reasonable belief that what he did was necessary in the performance of his duty." (*Clifton v. Cox* (9th Cir. 1977) 549 F.2d 722, 728-729) (quoting *Petition of McShane* (N.D. Miss. 1964) 235 F.Supp. 262, 274.) Supremacy Clause immunity is available if the defendant "reasonably believed that his actions were necessary to perform that job...and had no motive other than to do his job." (*Whitehead v. Senkowski* (2d Cir. 1991)

943 F.2d 230, 234.) A federal officer's error of judgement in what they conceive to be their legal duty will not alone create criminal responsibility on that officer. (*Morgan v. California*, supra, 743 F.2d at p. 731.) Under this relatively permissive federal immunity standard, it may be difficult for the AG to successfully prosecute federal immigration officer-involved shootings that are considered to have reasonably occurred during the performance of the officer's duties. However, unjustified and unreasonable shootings, or shootings that occur outside the scope of an immigration officer's duties, may be subject to successful AG prosecution.

- 4) **Constitutional Concerns:** Irrespective of whether an immigration officer can successfully establish Supremacy Clause immunity in a required prosecution under this bill, because this bill applies solely to federal immigration enforcement officers, and applies more expansively than similar investigation and prosecution requirements for peace officers, this bill may be subject to a legal challenge under the Supremacy Clause.

State laws that conflict with federal laws or attempt to regulate the federal government may be invalidated for several reasons. The Supremacy Clause of the U.S. Constitution provides that federal law "shall be the supreme Law of the Land; and the Judges in every State shall be bound thereby, any Thing in the Constitution or Laws of any State to the Contrary notwithstanding." (U.S. Const., art. VI, cl. 2.)

The doctrine of intergovernmental immunity is derived from the Supremacy Clause of the Constitution. Intergovernmental immunity demands that "the activities of the Federal Government are free from regulation by any state." (*United States v. California* (9th Cir. 2019) 921 F.3d 865, 878 (citations omitted).) This makes a state regulation invalid if it "regulates the United States directly or discriminates against the Federal Government or those with whom it deals." (*N.D. v. United States* (1990) 495 U.S. 423, 435); *Boeing Co. v. Movassaghi* (9th Cir. 2014) 768 F.3d 832, 839.) This prohibition against directly regulating the federal government prohibits states from "interfering with or controlling the operations of the Federal Government." (*United States v. Washington* (2022) 596 U.S. 832, 838.) In contrast, "[a] state or local law discriminates against the federal government if it treats someone else better than it treats the government." (*Boeing, supra*, 768 F.3d at p. 842, quoting *United States v. City of Arcata* (9th Cir. 2010) 629 F.3d 986, 991.) Notably, "any discriminatory burden on the federal government" is prohibited. (*United States v. California, supra*, 921 F.3d at p. 880) (emphasis in original). However, generally applicable state laws can apply to federal entities. (See *Johnson v. Maryland* (1920) 254 U.S. 51, 56; *N.D, supra*, 495 U.S. at pp. 435-438; *United States v. Washington, supra*, 596 U.S. at p. 839.)

A related doctrine is conflict preemption, whereby state laws that conflict with federal law are preempted. (*U.S. v. California, supra*, F.3d at pp. 878-879.) "This includes cases where compliance with both federal and state regulations is a physical impossibility, and those instances where the challenged state law stands as an obstacle to the accomplishment and execution of the full purposes and objectives of Congress." (*Arizona v. United States* (2012) 567 U.S. 387, 399.) For example, in *United States v. California* (2019) 921 F.3d 865, the Ninth Circuit Court of Appeals upheld the provisions of the California Values Act relating to law enforcement cooperation with ICE. The court of appeals had "no doubt that SB 54 makes the jobs of federal immigration authorities more difficult." (*Id.* at 886.) But the court concluded that "this frustration does not constitute obstacle preemption," because federal law "does not require any particular action on the part of California or its political subdivisions."

(*Id.* at p. 889.) “Even if SB 54 obstructs federal immigration enforcement,” the court stated, “the United States’ position that such obstruction is unlawful runs directly afoul of the Tenth Amendment and the anticommandeering rule.” (*Id.* at p. 888.) “California has the right, pursuant to the anticommandeering rule, to refrain from assisting with federal efforts.” (*Id.* at p. 891.) The court concluded that SB 54 does not violate the United States’ intergovernmental immunity for similar reasons. (*Ibid.*)

Here, this bill requires the AG to investigate incidents of a federal immigration enforcement officer-involved shooting of a civilian, and mandates the AG to initiate criminal charges against those officers if such charges are warranted, which could lead to a lawsuit alleging that it discriminates against the federal government in violation of intergovernmental immunity. The likelihood of success of such a claim is unclear.

California already requires the AG to investigate incidents of officer-involved shootings resulting in the death of an unarmed civilian, which supports the argument that this law is generally applicable to any law enforcement-officer involved shooting. However, an argument that this law is generally applicable may be undermined by the distinctions between the AG’s requirement to investigate peace officers and the requirements to investigate federal immigration officers under this bill. As previously noted, this bill is broader than the current requirement to investigate peace officer shootings because it is not limited to shootings resulting in the deaths of unarmed civilians. It also mandates the AG, upon investigating the shooting, to gather facts, submit a written report, and prosecute the officer if charges are warranted, while those actions are discretionary if the investigation involves a shooting by a peace officer.

To protect against a claim that this law discriminates against the federal government because it establishes more expansive and mandatory obligations to investigate federal officer shootings, the author may wish to align the provisions of this bill with existing statutory provisions pertaining to investigating peace officers.

- 5) **Argument in Support:** According to *SEIU California*, “[AB 1806] would require that the California Attorney General conduct an independent, transparent, and thorough investigation into any incident involving a shooting of a civilian by federal immigration enforcement agents.

“SEIU’s workforce has identified protecting the civil and human rights of immigrants broadly and immigrant workers specifically as a top legislative priority. ICE raids continue to adversely affect the lives of our members, their workplaces, and the communities in which they live, and it is imperative that state authorities investigate the types of incidents covered under this bill to ensure impartiality under the law.

“The 2025 immigration enforcement surge has led to an unprecedented increase in civilian shootings by immigration agents. An investigative report by the Wall Street Journal identified 13 instances of immigration agents firing at or into civilian vehicles across the country since July 2025. These incidents resulted in four deaths and at least five of those shot were U.S. citizens.

“Two of the most high-profile cases involve the deaths of two American citizens in Minneapolis, Minnesota. Renee Nicole Good, a 37-year-old mother of three, was fatally shot

by an Immigration and Customs Enforcement (ICE) agent on January 7th, and Alex Pretti, an ICU nurse, was fatally shot by a Customs and Border Patrol (CBP) officer on January 24th. The U.S. Department of Justice declined to open an investigation into the agent that killed Renee Good, and state officials reported being barred from receiving any evidence from the FBI. Similarly, in Alex Pretti's case, state authorities were blocked from accessing the crime scene by Homeland Security officials.

"In both the Good and Pretti cases, the federal government defended the shootings, characterizing the victims as violent agitators. These claims were publicly disputed by video evidence, local law enforcement, and independent analyses. The Trump administration has signaled to agents that they have "federal immunity," creating a culture of few checks on the use of deadly force during enforcement operations.

"California has already established a framework for independent investigation of officer-involved shootings. AB 1806 extends that same proven framework to shootings by federal immigration agents operating in California."

6) **Argument in Opposition:** None submitted.

7) **Prior Legislation:**

- a) AB 807 (McCarty), of the 2023-2024 Legislative Session, would have required the DOJ to investigate additional types of use-of-force incidents resulting in death and eliminate a requirement that the DOJ operate a division to review law enforcement agencies' deadly use-of-force policies. AB 807 was held in the Assembly Appropriations Committee.
- b) SB 715 (Portantino), Chapter 250, Statutes of 2021, clarified what qualifies as an "unarmed" civilian to trigger investigations of officer-involved shootings by the AG's Office.
- c) AB 1506 (McCarty), Chapter 326, Statutes of 2020, provided that a state prosecutor shall investigate any officer-involved shooting that resulted in the death of an unarmed civilian, as specified.
- d) AB 392 (Weber), Chapter 170, Statutes of 2019, revised the standards for use of force by police officers.
- e) SB 230 (Caballero), Chapter 285, Statutes of 2019, required law enforcement agencies to maintain a policy that provides guidelines on the use of force, utilizing de-escalation techniques and other alternatives to use of force, specific guidelines for the application of deadly force, and factors for evaluating and reviewing all use of force incidents
- f) AB 2917 (McCarty), of the 2019-2020 Legislative Session, would have required the AG, commencing on July 1, 2023, to create a program within the DOJ to review the policies on the use of deadly force of any law enforcement agency, as specified, that requests a review, and to make recommendations. AB 2917 was not set for a hearing in this Committee.

- g) AB 284 (McCarty), of the 2017-2018 Legislative Session, would have required DOJ, upon appropriation, to conduct a study of peace officer-involved shootings resulting in death or serious injury within a specified two-year period. AB 284 was held in the Senate Appropriations Committee.
- h) AB 86 (McCarty), of the 2015-2016 Legislative Session, would have required the Attorney General to appoint a special prosecutor to direct an independent investigation if a peace officer, in the performance of his or her duties, uses deadly physical force upon another person and that person dies as a result of the use of that deadly physical force. AB 86 was held on the Assembly Appropriations Suspense File.
- i) SB 227 (Mitchell), Chapter 175, Statutes of 2015, prohibited a grand jury from inquiring into an offense or misconduct that involves a shooting or use of excessive force by a peace officer, as specified, that led to the death of a person being detained or arrested by the peace officer. SB 227 was held unconstitutional by the Third Appellate District Court of Appeal.

REGISTERED SUPPORT / OPPOSITION:

Support

California Community Foundation
California Immigrant Policy Center
California Lulac State Organization
California State Council of Service Employees International Union (seiu California)
Californians for Safety and Justice (CSJ)
Center for Human Rights and Constitutional Law
Communities United for Restorative Youth Justice (CURYJ)
Drug Policy Alliance
East Valley Indivisibles
Ella Baker Center for Human Rights
Empowering Marginalized Asian Communities
Jewish Center for Justice
Justice2jobs Coalition
LA Defensa
Latino Community Foundation
Rubicon Programs
The Black Alliance for Just Immigration
The San Diego Lgbt Community Center

Opposition

None submitted.

Analysis Prepared by: Ilan Zur / PUB. S. / (916) 319-3744