

Date of Hearing: March 17, 2026

Counsel: Dustin Weber

ASSEMBLY COMMITTEE ON PUBLIC SAFETY

Nick Schultz, Chair

AB 1955 (Alanis) – As Amended March 9, 2026

**SUMMARY:** Prohibits firearms sentence enhancements from being applied to peace officers if the use of a firearm in the underlying crime was arising out of or in the course of their employment. Specifically, **this bill:**

- 1) States that the specified enhancements shall not apply to a peace officer, as defined, unless the use or discharge of the firearm did not arise out of and was not in the course of the employment.
- 2) Requires the prosecution to bear the burden of proving by a preponderance of the evidence that the exemption in this subdivision does not apply.
- 3) Prohibits the court, if the prosecution fails to meet this burden, from imposing the enhancement, and requires any reference to the enhancement to be stricken from the charging document or verdict.
- 4) States that the provisions in this bill do not affect the underlying charge or other enhancements or penalties applicable to firearm use.
- 5) Defines “arising out of and in the course of their employment” as something that shall be determined based on the facts and circumstances at the time of the incident, including whether the officer was performing services arising out of or incidental to their employment or was acting within the course of their employment.

**EXISTING LAW:**

- 1) Provides that a person who, in the commission of a specified felony, personally uses a firearm, shall be punished by an additional and consecutive term of imprisonment in the state prison for 10 years. The firearm need not be operable or loaded for this enhancement to apply. (Pen. Code, § 12022.53, subd. (b).)
- 2) Provides that a person who, in the commission of a specified felony, personally and intentionally discharges a firearm, shall be punished by an additional and consecutive term of imprisonment in the state prison for 20 years. (Pen. Code, § 12022.53, subd. (c).)
- 3) Provides that a person who, in the commission of a specified felony, personally and intentionally discharges a firearm and proximately causes great bodily injury, as defined, or death, to a person other than an accomplice, shall be punished by an additional and consecutive term of imprisonment in the state prison for 25 years to life. (Pen. Code, § 12022.53, subd. (d).)

- 4) Provides that the specified firearm enhancements above are applicable to the following felonies:
  - a) Murder;
  - b) Mayhem;
  - c) Kidnapping;
  - d) Robbery;
  - e) Carjacking;
  - f) Assault with intent to commit a specified felony;
  - g) Assault with a firearm on a peace officer or firefighter;
  - h) Rape;
  - i) Rape or sexual penetration in concert;
  - j) Sodomy;
  - k) Oral copulation;
  - l) Lewd act on a child;
  - m) Sexual penetration;
  - n) Assault by a life prisoner;
  - o) Assault by a prisoner;
  - p) Holding a hostage by a prisoner;
  - q) Any felony punishable by death or imprisonment in the state prison for life; and,
  - r) Any attempt to commit a crime listed in this subdivision other than an assault. (Pen. Code, § 12022.53, subd. (a).)
- 5) Requires the enhancements to apply to any person who is a principal in the commission of an offense if both of the following are pled and proved:
  - a) The crime was for the benefit of, at the direction of, or in association with a criminal street gang, with the specific intent to promote, further, or assist in criminal conduct by gang members; and,
  - b) Any principal in the offense committed a defined firearm act. (Pen. Code, § 12022.53, subd. (e)(1).)

- 6) States that an enhancement for participation in a criminal street gang, as defined, shall not be imposed on a person in addition to a firearms enhancement, unless the person personally used or personally discharged a firearm in the commission of the offense. (Pen. Code, § 12022.53, subd. (e)(2).)
- 7) Provides that only one additional term of imprisonment shall be imposed per person for each crime. If more than one enhancement per person is found true, the court shall impose upon that person the enhancement that provides the longest term of imprisonment. (Pen. Code, § 12022.53, subd. (f).)
- 8) A firearm enhancement shall not be imposed on a person in addition to a 10-20-25 to life firearm enhancement. (Pen. Code, § 12022.53, subd. (f).)
- 9) Provides that an enhancement for great bodily injury, as defined, shall not be imposed on a person in addition to 25 years to life firearm enhancement. (Pen. Code, § 12022.53, subd. (f).)
- 10) States that probation shall not be granted to, nor shall the execution or imposition of sentence be suspended for, a person found guilty of a specified firearm enhancement. (Pen. Code, § 12022.53, subd. (g).)
- 11) Authorizes the court, in the interest of justice, as specified, at the time of sentencing to strike or dismiss an enhancement otherwise required to be imposed. This authority applies to any resentencing. (Pen. Code, § 12022.53, subd. (h).)
- 12) Provides that the total amount of credits awarded, as specified, shall not exceed 15 percent of the total term of imprisonment imposed on a defendant upon whom a defined firearm enhancement sentence is imposed. (Pen. Code, § 12022.53, subd. (i).)
- 13) States that when a specified enhancement has been admitted or found to be true, the court shall impose punishment for the defined firearm enhancement rather than imposing punishment authorized under any other law, unless another enhancement provides for a greater penalty or a longer term of imprisonment. (Pen. Code, § 12022.53, subd. (j).)
- 14) Requires that when a person is found to have used or discharged a firearm in the commission of an offense and the firearm is owned by that person, a coparticipant, or a coconspirator, the court shall order that the firearm be deemed a nuisance and disposed of in a defined manner. (Pen. Code, § 12022.53, subd. (k).)
- 15) States that the specified enhancements shall not apply to the lawful use or discharge of a firearm by a public officer, or by any person in lawful self-defense, lawful defense of another, or lawful defense of property, as defined. (Pen. Code, § 12022.53, subd. (l).)

**FISCAL EFFECT:** Unknown

**COMMENTS:**

- 1) **Author's Statement:** According to the author, "AB 1955 addresses a critical gap in existing law by exempting peace officers from firearm sentencing enhancements under Penal Code Section 12022.53 when the use or discharge of a firearm arises out of and in the course of their employment. Currently, officers risk severe additional penalties for actions taken to protect the public, which can deter decisive responses in dangerous situations. This bill makes Californians safer by empowering officers to fulfill their duties without fear of unjust enhancements, while placing the burden on the prosecution to prove inapplicability. It enhances equity in the criminal justice system by recognizing the unique responsibilities of law enforcement, preventing disproportionate impacts on officers from diverse communities, and ensuring accountability only for off-duty misconduct."
- 2) **Effect of the Bill:** AB 1955 would exempt peace officers from defined firearm enhancements unless the use or discharge of their firearm did not arise out of and was not in the course of their employment.

To receive a sentence enhancement under this statute, a person must be convicted of a specified underlying crime. (Pen. Code, § 12022.53, subd. (a).) The enhancement scheme for which peace officers would be exempted under this bill is the 10-20-25 to life enhancement structure. Under these enhancements, an individual convicted of a specified predicate crime could get a 10-year enhancement for personal use of a firearm during the crime, a 20-year enhancement for personal and intentional discharge of a firearm during the crime, and a 25-year to life enhancement for personal and intentional discharge of a firearm that proximately causes great bodily injury during the crime. (Pen. Code, § 12022.53, subs. (b)-(d).)

The crimes for which these firearms enhancements apply include, among others, murder, kidnapping, robbery, rape, and lewd acts on a child. These are serious crimes that produce potentially long terms of confinement. Use of a firearm during commission of one of these crimes can produce a confinement term so punitive that punishment becomes close to or actually a life sentence.

This bill would exempt peace officers from these punitive enhancements unless their use or discharge of the firearm did not "arise out of and in the course of their employment." Under this bill, whether the conduct arose out of and in the course of employment "shall be determined based on the facts and circumstances at the time of the incident, including whether the officer was performing services arising out of or incidental to their employment or was acting within the course of their employment." The definition reads as requiring a totality of the circumstances evaluation, but with a relatively low bar for finding conduct arose out of and in the course of employment. For example, performing services incidental to employment potentially captures all conduct during an officer's time on duty and a reasonable amount of conduct while off duty.

Furthermore, AB 1955 would require prosecutors to prove the peace officer exemption does not apply by a preponderance of the evidence, presumably at a preliminary hearing, and if the prosecutor fails to meet the preponderance of evidence burden, any reference to the enhancement would be stricken from any charging document or verdict. At the preliminary hearing, where this type of determination would be made under AB 1955, the court will hear evidence as to whether the elements of alleged offense or offenses are, at least, sufficiently met to hold a defendant to answer at a trial. Since the passage of Proposition 115 in 1982, a preliminary hearing may be just the investigating officer relying on hearsay evidence to

support the elements of the crime. (Pen. Code, § 872, subd. (b).) The standard used in preliminary hearings, however, is a probable cause standard.

The probable cause standard is considered a lower evidentiary standard than a preponderance of the evidence standard. Therefore, while this bill may leave unchanged the standard for the predicate crime charged that makes available the firearm enhancement, AB 1955 would change the standard for whether officers are exempt from the firearm enhancement to a higher evidentiary standard. This sort of burden shifting, particularly in light of Proposition 115, is arguably unconstitutional.

- 3) **Legislative History:** The enhancements for which peace officers would be exempted under this bill are nearly 30 years old. AB 4, passed into law in 1997 (Bordonaro, Ch. 503, Stats. 1997), established the initial enhancement scheme now codified in Section 12022.53 of the Penal Code. The law as originally passed, however, provided for a 25-year enhancement for personal use and discharge of a firearm during one of the defined crimes. (*Ibid.*) SB 620 (Bradford, Ch. 682, Stats. 2017) was a substantive change to this part of the Penal Code, which modified Section 12022.53 by permitting a court to strike an enhancement, in the interest of justice, that was otherwise required to be imposed. Other attempts, as noted below in **Prior Legislation**, have been made to provide some flexibility with imposing the firearms enhancements.

Certain groups have registered relatively consistent support and opposition to the availability of these enhancements. Law enforcement groups generally have been proponents of these enhancements. Despite that support, this bill seeks to broadly exempt law enforcement officers from these enhancements, except under seemingly narrow circumstances.

- 4) **No One is Above the Law:** AB 1955 arguably undermines a fundamental maxim of our legal system, which is that no one is above the law. In 1215, when the English monarch confirmed the Magna Carta, the idea that no one, including the king, is above the law became embedded in English law.<sup>1</sup> The Magna Carta is a foundational charter that would serve as a reference point for our own Constitution's development.<sup>2</sup> Though the Constitution has been interpreted and reinterpreted over the years, and certain judicial decisions have authorized certain people to wield outsized power, the principle that no one is above the law has remained a relative constant in our jurisprudence and cultural identity. President Obama has reinforced this shared American commitment to the rule of law stating that we are "not afraid of an independent judiciary because no one is above the law."<sup>3</sup>

No one being above the law ought to include Presidents, elected officials, judges, and law enforcement officers. Even though law enforcement officers are required to carry firearms on the job, is it sensible to exclude them from an enhancement where commission of a serious underlying crime is required for the enhancement to apply in the first place?

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<sup>1</sup> *Magna Carta*, Western District Court of Pennsylvania <<https://www.pawd.uscourts.gov/magna-carta#>> [as of Mar. 12, 2026].

<sup>2</sup> *Ibid.*

<sup>3</sup> *Remarks by President Obama to the People of Estonia* (Sep. 3, 2014) <<https://obamawhitehouse.archives.gov/the-press-office/2014/09/03/remarks-president-obama-people-Estonia#>> [as of Mar. 13, 2026].

- 5) **Argument in Support:** According to the bill’s sponsor, the *Police Officers Research Association of California (PORAC)*, “Peace officers are routinely required to make split-second decisions in dangerous and rapidly evolving situations to protect the public and themselves. In some of the most serious encounters, officers may be forced to use their firearm in order to stop a threat and save lives. These decisions occur in circumstances fundamentally different from those contemplated by firearm sentencing enhancements designed to punish criminal conduct.

“Under current law, Penal Code Section 12022.53 imposes mandatory sentencing enhancements for the use or discharge of a firearm during the commission of certain felonies (10 years for use, 20 years for discharge, and 25 years to life for discharge causing great bodily injury or death). These provisions were intended to address criminal misuse of firearms, yet they contain no distinction for peace officers acting in the course and scope of their official duties. As a result, officers performing their lawful responsibilities may face the potential for additional punishment under statutes designed to deter criminal firearm use.

“AB 1955 corrects this imbalance by exempting peace officers from firearm sentencing enhancements under Section 12022.53 when the use or discharge of a firearm arises out of and occurs within the course and scope of their employment. Importantly, the bill does not alter the underlying criminal charges or other applicable penalties. It simply ensures that enhancements intended for criminal actors are not automatically applied to officers performing their official duties. If the exemption is contested, the prosecution retains the ability to demonstrate that it does not apply.

“In *People v. Mehserle* (2012) 206 Cal.App.4th 1125, a BART officer faced murder charges and gun enhancements after mistakenly discharging his firearm instead of a taser during a chaotic arrest, killing Oscar Grant. The jury convicted him of involuntary manslaughter and a gun enhancement, but the trial court ultimately struck the enhancement at sentencing in the interests of justice, recognizing it was unfair to apply in this on-duty context. This is precisely the injustice AB 1955 corrects. AB 1955 exempts duty-related firearm use from enhancements intended to deter criminals who arm themselves to commit or escalate crimes, sparing officers the need to rely on post-trial judicial discretion after enduring the full burden of a trial and potential conviction on the enhancement.

“AB 1955 recognizes the unique responsibilities placed on peace officers and ensures the law appropriately reflects the realities of policing while maintaining accountability.”

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

7) **Related Legislation:**

- a) AB 991 (Essayli), of the 2025-26 Legislative Session, would make the dismissal of enhancements inapplicable to firearms-related enhancements, but would allow the court to dismiss these firearm-related enhancements pursuant to the court’s general authority to dismiss an action, as specified. AB 991 did not receive a hearing in this committee.
- b) AB 1966 (Ramos), would require the court to impose an additional and consecutive 2-year term of state imprisonment for individuals convicted of committing a qualifying

criminal activity, as specified, against a person who is an undocumented individual. AB 1966 is pending hearing in this committee.

- c) AB 2450 (Johnson), would make specified requirements to dismiss an enhancement inapplicable to certain enhancements related to drug possession and trafficking, and would instead authorize the court to dismiss those specified enhancements if it is in the furtherance of justice to do so, except if dismissal of that enhancement is prohibited by any initiative statute. AB 2450 is pending hearing in this committee.

#### 8) **Prior Legislation:**

- a) AB 27 (Ta), of the 2023-24 Legislative Session, would have prohibited a court from dismissing a firearms-related enhancement, as defined. AB 27 failed passage in the Assembly Public Safety Committee.
- b) AB 328 (Essayli), of the 2023-24 Legislative Session, would have prohibited a court from striking an allegation or a finding that would make a crime punishable pursuant to those enhancement provisions, except that a court could strike or dismiss an enhancement when the person did not personally use or discharge the firearm or when the firearm was unloaded. AB 328 failed passage in the Assembly Public Safety Committee.
- c) AB 3037 (Essayli), of the 2023-24 Legislative Session, would have made the provision relating to the dismissal of enhancements inapplicable to firearms-related enhancements, but would allow the court to dismiss these firearm-related enhancements pursuant to the court's general authority to dismiss an action, as specified. AB 3037 failed passage in the Assembly Public Safety Committee.
- d) SB 81 (Skinner), Chapter 721, Statutes of 2021, required a court to dismiss an enhancement if it is in the furtherance of justice to do so. SB 81 requires a court to consider and afford great weight to evidence offered by the defendant to prove that specified mitigating circumstances are present. SB 81 provides that proof of the presence of one or more specified mitigating circumstances weighs greatly in favor of dismissing an enhancement, unless the court finds that dismissal would endanger public safety, as defined.
- e) SB 483 (Allen), Chapter 728, Statutes of 2021, declared certain enhancements imposed to be legally invalid, and required the court, after verifying specified information, to recall the sentence and resentence the individual to remove any invalid sentence enhancements.
- f) AB 931 (Villapudua), of the 2021-22 Legislative Session, would have allowed, but would not have required, a sentencing court to dismiss an enhancement if the court determines that it is in the furtherance of justice to do so. AB 931 failed passage in the Senate Public Safety Committee.
- g) AB 1127 (Santiago), of the 2021-22 Legislative Session, would have prohibited a prior juvenile adjudication from being considered a prior serious or violent felony conviction for purposes of a sentence enhancement. AB 1127 would have provided a means of vacating a prior juvenile conviction enhancement and resentencing a defendant on any

remaining counts when specified conditions apply. AB 1127 was sent the inactive file on the Assembly Floor.

- h) AB 1509 (Lee), of the 2021-22 Legislative Session, would have reduced the mandatory terms of defined firearms enhancements. AB 1509 was held in suspense in the Assembly Appropriations Committee.
- i) AB 2027 (Choi), of the 2021-22 Legislative Session, would have exempted hate crimes enhancements from the requirement that certain enhancements be dismissed if, after considering specified mitigating factors, it is in the furtherance of justice to dismiss the enhancements. AB 2027 failed passage in the Assembly Public Safety Committee.

**REGISTERED SUPPORT / OPPOSITION:**

**Support**

Peace Officers Research Association of California (PORAC) (Sponsor)  
California Police Chiefs Association

**Opposition**

None submitted

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