

Date of Hearing: April 21, 2026
Counsel: Kimberly Horiuchi

ASSEMBLY COMMITTEE ON PUBLIC SAFETY
Nick Schultz, Chair

AB 2014 (Elhawary) – As Amended April 15, 2026

SUMMARY: Authorizes a writ of habeas corpus to be prosecuted where the conviction was based on evidence or argument that likely triggered gender-based stereotypes at trial in a manner that created a reasonable probability that the outcome would have been different if such evidence was not admitted or argument offered. Specifically, **this bill:**

- 1) States “evidence or argument likely to trigger gender-based stereotypes” includes, but is not limited to, the following:
 - a) Information concerning a defendant’s sexual activity, sexual orientation, sexual partners, reproductive choices, gender presentation, clothing, or romantic relationships, when offered in a matter that may invoke gender-based stereotypes.
 - b) Sexually suggestive images or photos.
 - c) Evidence related to appearance, dress, or gender expression offered to imply conformity or nonconformity with gender norms.
 - d) References to parenting expectations, including a defendant’s purported failure to conform to traditional gender roles.
 - e) Appeals to a “woman’s nature,” emotional disposition, or similar generalized gender-based assumptions.
- 2) Makes findings and declarations.

EXISTING LAW:

- 1) Allows a court to exclude evidence if its probative value is substantially outweighed by the probability that its admission will:
 - a) Necessitate undue consumption of time; or
 - b) Create substantial danger of undue prejudice, of confusing the issues, or of misleading the jury. (Evid. Code, § 352.)
- 2) Provides that for specified sex crimes, in which the defendant is alleged to have compelled the participation of the victim by force, violence, duress, menace, or threat of great bodily harm, the district attorney may move to exclude from evidence the current address and telephone number of any victim at the hearing. The court may order that evidence of the

victim's current address and telephone number be excluded from any hearings conducted pursuant to the criminal proceeding if the court finds that the probative value of the evidence is outweighed by the creation of substantial danger to the victim. (Evid. Code, § 352.1.)

- 3) Mandates that for specified sex offenses, if evidence of sexual conduct of the complaining witness is offered to attack the credibility of the complaining witness, the following procedures be followed:
 - a) A written motion shall be made by the defendant to the court and prosecutor stating that the defense has an offer of proof of the relevance of evidence of the sexual conduct of the complaining witness that is proposed to be presented and of its relevance in attacking the credibility of the complaining witness.
 - b) The written motion shall be accompanied by an affidavit in which the offer of proof shall be stated. The affidavit shall be filed under seal and only unsealed by the court to determine if the offer of proof is sufficient to order a hearing, as specified. After that determination, the affidavit shall be resealed by the court.
 - c) If the court finds that the offer of proof is sufficient, the court shall order a hearing out of the presence of the jury, if any, and at the hearing allow the questioning of the complaining witness regarding the offer of proof made by the defendant.
 - d) At the conclusion of the hearing, if the court finds that evidence proposed to be offered by the defendant regarding the sexual conduct of the complaining witness is relevant, and is not inadmissible, as specified, the court may make an order stating what evidence may be introduced by the defendant, and the nature of the questions to be permitted. The defendant may then offer evidence pursuant to the order of the court.
 - e) An affidavit resealed by the court shall remain sealed, unless the defendant raises an issue on appeal or collateral review relating to the offer of proof contained in the sealed document. If the defendant raises that issue on appeal, the court shall allow the Attorney General and appellate counsel for the defendant access to the sealed affidavit. If the issue is raised on collateral review, the court shall allow the district attorney and defendant's counsel access to the sealed affidavit. The use of the information contained in the affidavit shall be limited solely to the pending proceeding. (Evid. Code, § 782, subd. (a)(1-5).)
- 4) Defines "complaining witness" as:
 - f) The alleged victim of the crime charged the prosecution of which is subject to this law.
 - g) An alleged victim offering testimony of a sex offense, as specified. (Evid. Code, § 782, subd. (b)(1)(A-B).)
- 5) Defines "evidence of sexual conduct" as portions of a social media account about the complaining witness, including any text, image, video, or picture, which depict sexual content, sexual history, nudity or partial nudity, intimate sexual activity, communications about sex, sexual fantasies, and other information that appeals to a prurient interest, unless it

is related to the alleged offense. (Evid. Code, § 782, subd. (b)(2).)

- 6) States the rape shield hearing procedure is required in prosecutions for rape, aiding and abetting rape, sodomy, oral copulation, child molestation, continuous sexual abuse of children, and sexual penetration except if the alleged crime occurs in a state prison or county jail. (Evid. Code, § 782, subd. (c)(1).)
- 7) Requires the rape shield hearing process when presenting uncharged misconduct evidence and an alleged victim testifies as a victim of a crime listed in Section sexual battery, rape, unlawful sexual intercourse, aggravated sexual abuse of a child, incest, sodomy, oral copulation, child molestation, continuous sexual abuse of a child, sexual penetration, masturbation in public, or annoying or molesting a child, except if the crime is alleged to have occurred in a local detention facility or state prison. (Evid. Code, § 782, subd. (c)(2).)
- 8) States evidence of a person's character or a trait of his or her character (whether in the form of an opinion, evidence of reputation, or evidence of specific instances of his or her conduct) is inadmissible when offered to prove his or her conduct on a specified occasion, except as specified. (Evid. Code, § 1101, subd. (a).)
- 9) Provides that the inadmissibility of character evidence does prohibit the admission of evidence that a person committed a crime, civil wrong, or other act when relevant to prove some fact (such as motive, opportunity, intent, preparation, plan, knowledge, identity, absence of mistake or accident, or whether a defendant in a prosecution for an unlawful sexual act or attempted unlawful sexual act did not reasonably and in good faith believe that the victim consented) other than his or her disposition to commit such an act. (Evid. Code, § 1101, subd. (b).)
- 10) Provides that a person unlawfully imprisoned or restrained of their liberty may prosecute a writ of habeas corpus to inquire into the cause of the imprisonment or restraint. (Pen. Code, § 1473, subd. (a).)
- 11) States that a writ of habeas corpus may be prosecuted for, but not limited to, the following reasons:
 - a) False evidence that is material on the issue of guilt or punishment was introduced against a person at a hearing or trial relating to the person's incarceration;
 - b) False physical evidence, believed by a person to be factual, probative, or material on the issue of guilt, which was known by the person at the time of entering a plea of guilty, as specified;
 - c) New evidence exists that is presented without substantial delay, is admissible, and is sufficiently material and credible that it more likely than not would have changed the outcome of the case. "New evidence" means evidence that has not previously been presented and heard at trial and has been discovered after trial; and,
 - d) A significant dispute has emerged or further developed in the petitioner's favor regarding expert medical, scientific, or forensic testimony that was introduced at trial or a hearing and that expert testimony more likely than not affected the outcome of the

case, as specified. (Pen. Code, § 1473, subd. (b)(1).)

- 12) Provides that the writ of habeas corpus may also be prosecuted after judgment has been entered based on evidence that a criminal conviction or sentence was sought, obtained, or imposed on the basis of race, ethnicity, or national origin, as specified. (Pen. Code, § 1473, subd. (e).)
- 13) States that a petition raising a claim based on evidence that a criminal conviction or sentence was sought, obtained, or imposed on the basis of race, ethnicity, or national origin, or on the basis of new discovery provided by the state or other new evidence that could not have been previously known by the petitioner with due diligence, shall not be deemed a successive or abusive petition. (Pen. Code, § 1473, subd. (e).)
- 14) Provides that, if the district attorney in the county of conviction or the Attorney General concedes or stipulates to a factual or legal basis for habeas relief, there shall be a presumption in favor of granting relief. This presumption may be overcome only if the record before the court contradicts the concession or stipulation or it would lead to the court issuing an order contrary to law. (Pen. Code, § 1473, subd. (g).)

FISCAL EFFECT: Unknown

COMMENTS:

- 1) **Author's Statement:** According to the author, “Women and LGBTQ+ people often deal with hate, unfair stereotypes, and assumptions about their lives. Those stereotypes should have no place in our courtrooms. Criminal trials should focus on the facts of a case, not a defendant’s sexual history, explicit images, or assumptions about their parenting that reinforce harmful bias.

“When gender-biased evidence is introduced in court, it distracts from the truth and can lead to skewed outcomes, including wrongful convictions that cause lasting harm to individuals and families. AB 2014 helps ensure that court proceedings remain focused on facts and fairness rather than prejudice. By reducing bias in the courtroom, this bill helps prevent unnecessary trauma, strengthens trust in our justice system, and avoids wasting taxpayer resources on wrongful prosecutions and appeals.”

- 2) **Habeas Petitions:** Habeas corpus, also known as “the Great Writ,” is a process guaranteed by both the federal and state constitutions to obtain prompt judicial relief from unlawful restraint. The functions of the writ is set forth in Penal Code section 1473, subdivision (a): “Every person unlawfully imprisoned or restrained of his or her liberty, under any pretense whatever, may prosecute a writ of habeas corpus, to inquire into the cause of such imprisonment or restraint.” Penal Code section 1473, subdivision (d) specifies that “nothing in this section shall be construed as limiting the grounds for which a writ of habeas corpus may be prosecuted.”

A writ of habeas corpus may be prosecuted for, but not limited to, the following reasons: false evidence that is substantially material or probative on the issue of guilt or punishment was introduced against a person at any hearing or trial relating to his incarceration; or false physical evidence believed by a person to be factual, material or probative on the issue of

guilt, which was known by the person at the time of entering a plea of guilty and which was a material factor directly related to the plea of guilty by the person. (Pen. Code, § 1473, subd. (b)(1) & (2).) Any allegation that the prosecution knew or should have known of the false nature of the evidence is immaterial to the prosecution of a writ of habeas corpus based on false evidence. (Pen. Code, § 1473, subd. (c).)

A habeas corpus claim of false testimony requires proof that false evidence was introduced against petitioner at his or her trial and that such evidence was material or probative on the issue of his or her guilt. (*In re Bell* (2007) 42 Cal.4th 630, 637.) False evidence introduced at trial against a defendant is substantially material or probative if there is a reasonable probability that, had the false evidence not been introduced, the result would have been different. (*In re Roberts* (2003) 29 Cal.4th 726, 741-742.) A reasonable probability that the result would have been different if false evidence had not been introduced against defendant is a chance great enough, under the totality of circumstances, to undermine the court's confidence in the outcome. (*Id.* at p. 742.)

A writ of habeas corpus may also be prosecuted based on newly discovered evidence. The new evidence must be “credible, material, presented without substantial delay, and of such decisive force and value that it would have more likely than not changed the outcome at trial.” (Pen. Code, §1473, subd. (b)(3).)

The Legislature has also codified the right to prosecute a petition for writ of habeas corpus when evidence of intimate partner battering was not presented at trial. (Pen. Code, § 1473.5.) Again, the evidence must be of such substance that had it been presented there is a “reasonable probability, sufficient to undermine confidence in the judgment of conviction or sentence, that the result of the proceedings would have been different.” (Pen. Code, § 1473.5, subd. (a).)

This bill authorizes a habeas petition when the conviction is based on evidence or argument that was likely to trigger gender-based stereotyping. The author points to a quotation in *People v. Collins* (2025) 17 Cal. 5th 293, as evidence of the use of gender-based stereotyping. In *Collins*, the defendant was convicted on an aiding and abetting theory of implied malice second degree murder.

The Court overturned the conviction finding sufficient evidence that, based on failure to protect defendant's infant child from fatal abuse by the other parent, the defendant knew of the abuse as it happened and defendant's knowledge of past abusive behavior could not support a reasonable inference that defendant knew, to a substantial degree of certainty, of the other parent's intent to commit life-endangering abuse and failed to act in conscious disregard for life, which was the requisite *mens rea* for aiding and abetting implied malice murder. (See *Collins, supra*, 17 Cal.5th at 317.)

In a side comment, Justice Evans cautioned law enforcement and prosecutors not to rely on outdated gender tropes in interrogations or argument. However, in this case, it was not evidence in the trial, but rather statements the detectives made in questioning defendant. Justice Evans stated:

Lastly, we emphasize it is improper to infer a parent's knowledge that another person intends to commit a life-

endangering act against their child based on gendered expectations of parenthood. Here, police questioned Collins about her ‘mother intuition.’ They asked about her ‘gut’ as a mother and remarked how she was ‘built’ with a maternal instinct to protect her child and know what was happening to Abel without direct observation. Assumptions about what Collins should have done based on outmoded, gendered notions of a mother’s—as compared to a father’s—role in caring for a child are not proper in determining a mother’s liability for murder based on a failure to protect. (*Collins*, supra, 17 Cal.5th at 318.)

This bill seeks to address convictions based on gender-based stereotyping by providing a habeas remedy. While the Racial Justice Act provides remedies for convictions based on race, ethnicity, and national origin, there is nothing similar for convictions based on gender discrimination.

- 3) **Argument in Support:** According to *Equality California*, a co-sponsor, “Current law requires judges to weigh the probative value of evidence against its potential for undue prejudice. However, it does not explicitly require courts to consider whether certain evidence may reinforce harmful gender-based stereotypes. As a result, in some criminal trials, evidence and arguments rooted in stereotypes and tropes about sexuality, motherhood, appearance, gender expression, or how a person is “supposed” to behave based on their gender can influence juries and undermine the integrity of verdicts.

“The California Committee on Revision of the Penal Code recently documented how gender bias can shape trial outcomes, particularly in cases involving women and LGBTQ+ defendants.¹ Evidence such as a defendant’s sexual history, romantic relationships, reproductive choices, clothing, or failure to conform to traditional gender roles has been used in ways that appeal to bias rather than illuminate relevant facts. Research and case law further demonstrate that these dynamics can contribute to wrongful or overturned convictions.

“AB 2014 addresses this gap by requiring courts to apply heightened scrutiny to evidence or arguments that may rely on gender-based stereotypes. The bill ensures judges consider the risk of gender bias alongside the evidence’s probative value, allows courts to consider relevant research or testimony, and requires these determinations to be made outside the presence of the jury. It also allows individuals to petition for habeas corpus relief when they show that gender-biased evidence or argument affected their trial and that there is a reasonable probability that the outcome would have been different if such evidence were not admitted. By implementing a key recommendation of the Committee on Revision of the Penal Code, AB 2014 will promote fairness and strengthen confidence in our criminal legal system.”

- 4) **Argument in Opposition:** According to the *California District Attorneys Association*, “AB 2014 will likely disproportionately restrict prosecutorial arguments while not equally

¹ California Committee on Revision of the Penal Code. (2025). 2025 annual report and recommendations. California Law Revision Commission. https://clrc.ca.gov/CRPC/Pub/Reports/CRPC_AR2025.pdf

constraining defense strategies, potentially creating imbalance in adversarial proceedings. While combating bias is an important goal, AB 2014 may overcorrect by creating vague standards, increasing litigation, restricting relevant evidence, and undermining constitutional principles favoring admissibility of probative evidence.”

- 5) **Related Legislation:** AB 1595 (Schultz) authorizes a petitioner for habeas corpus relief, in order to overcome a procedural bar to relief based on untimeliness or successiveness, to identify changes in law or new evidence that create a reasonable probability of a different result sufficient to undermine confidence in the outcome of the case. AB 1595 is pending in the Assembly Appropriations Committee.
- 6) **Prior Legislation:**
 - a) AB 3088 (Friedman), of the 2023-24 Legislative Session, would have required a habeas corpus petition to be considered on the merits and not dismissed on grounds that it is untimely or successive if, the allegations in the petition taken as true, establish by a preponderance of evidence that at least one juror would not have convicted the petitioner in light of the new evidence. AB 3088 was held in the Senate Committee on Appropriations suspense file.
 - b) SB 97 (Wiener), Chapter 381, Statutes of 2023, authorizes a broader basis for the prosecution of a writ of habeas corpus when new evidence is discovered after plea or trial, creates a presumption in favor of granting relief if the prosecution stipulates to a factual or legal basis for the relief, and provides for continuity of counsel on retrial.
 - c) SB 467 (Wiener), Chapter 982, Statutes of 2022, permits a person to bring a habeas writ where a significant dispute has developed regarding expert medical, scientific, or forensic testimony that would have more likely than not changed the outcome of their trial, and expands the definition of false evidence for the purpose of a habeas writ.
 - d) SB 1134 (Leno), Chapter 785, Statutes of 2016, codified a standard for habeas corpus petitions filed on the basis of new evidence.
 - e) SB 1058 (Leno), Chapter 623, Statutes of 2014, allows a writ of habeas corpus to be prosecuted when evidence given at trial has subsequently been repudiated by the expert that testified or undermined by later scientific research or technological advances.

REGISTERED SUPPORT / OPPOSITION:

Support

Equality California (Co-Sponsor)
All of US or None (HQ)
All of US or None Orange County
Bienestar Human Services
California Association of Black Lawyers
California Coalition for Women Prisoners

California Legislative LGBTQ Caucus
California LGBTQ Health and Human Services Network
California Public Defenders Association
Californians for Safety and Justice (CSJ)
Cft – a Union of Educators & Classified Professionals, Aft, Afl-cio
Crip Justice/ Riverside Cat-911
Cure California
Drug Policy Alliance
El/la Para Translatinas
Ella Baker Center for Human Rights
Families Inspiring Reentry & Reunification 4 Everyone (FIR4E)
Felony Murder Elimination Project
Gender Affirming Professionals
Glide
Initiate Justice
Justice2jobs Coalition
LA Defensa
Legal Services for Prisoners With Children
Pflag San Diego County
Pflag San Francisco
Pflag Santa Clarita
San Diego Pride
San Quentin Skunkworks
Sister Warriors Freedom Coalition
Smart Justice California, a Project of Beyond Impact
Survived & Punished
The San Diego LGBT Community Center
The Translatin@ Coalition
The W. Haywood Burns Institute
Vera Institute of Justice

Oppose

California District Attorneys Association
Riverside County District Attorney

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