

Date of Hearing: May 13, 2026

ASSEMBLY COMMITTEE ON APPROPRIATIONS

Buffy Wicks, Chair

AB 2273 (Bains) – As Amended April 23, 2026

Policy Committee: Public Safety

Vote: 9 - 0

Urgency: No

State Mandated Local Program: Yes

Reimbursable: Yes

SUMMARY:

This bill, the Scrivner Act, requires (1) the prosecution to state on the record why charges are not being sought when the facts alleged in the accusatory pleading or disclosed in the preliminary hearing transcript would constitute one of the offenses that would categorically exclude a defendant from mental health diversion under Penal Code Section 1001.36(d), and (2) the Department of Justice (DOJ) to bring criminal charges within 30 days of completing an investigation of an elected official where DOJ determines the person committed specified rape-related crimes, the victim was a minor, and the case is appropriate for prosecution.

FISCAL EFFECT:

- 1) Costs (local funds, General Fund) of an unknown but likely minor amount to county prosecuting attorneys' offices to state on the record (or in writing) the grounds for not charging an enumerated offense statutorily excluded from mental health diversion when the facts alleged in the accusatory pleading or disclosed at the preliminary hearing would constitute that offense, and to confer with the victim about the charges filed. General Fund costs will depend on whether the duties imposed by this bill constitute a reimbursable state mandate, as determined by the Commission on State Mandates.
- 2) Cost pressures (Trial Court Trust Fund) of an unknown but likely minor amount to the trial courts to receive and adjudicate prosecutor declarations on the record at arraignment or other applicable proceedings. Although courts are not funded on the basis of workload, increased pressure on the Trial Court Trust Fund may create a demand for increased funding for courts from the General Fund.
- 3) Costs (General Fund) of an unknown but likely minor amount to the DOJ to comply with the 30-day charging requirement under proposed Penal Code Section 11110, including any workload associated with prioritizing and finalizing charging decisions in qualifying cases involving elected officials accused of specified sex offenses against minors. Per the policy committee analysis, the universe of cases triggering this requirement is expected to be very small. Failure to bring charges within 30 days does not preclude later prosecution under proposed Section 11110(b), so the provision creates a deadline but no enforcement mechanism or sanction for missing it.

The Legislative Analyst's Office recently warned of General Fund structural deficits of around \$35 billion per year beginning in the 2027-28 fiscal year.

COMMENTS:

- 1) **Purpose.** Per the Public Safety committee analysis, this bill responds to the case of a former Kern County Supervisor who was granted pretrial mental health diversion after being charged with felony child abuse and weapons offenses, even though the allegations of conduct would have constituted lewd acts on a child under 14 — an offense that would have rendered the defendant categorically ineligible for diversion — but the defendant was not charged with that offense.
- 2) **Background.** California’s mental health diversion law (Penal Code Section 1001.36) authorizes a court, in its discretion, to grant pretrial diversion to a defendant charged with a misdemeanor or felony if the defendant has a qualifying mental disorder, the disorder was a significant factor in the commission of the charged offense, and the defendant satisfies enumerated suitability criteria. The law categorically excludes defendants charged with murder, voluntary manslaughter, rape, lewd or lascivious acts on a child under 14, certain sex offenses requiring registration, and offenses involving weapons of mass destruction.

This bill addresses what appears to be a very narrow circumstance: where the facts in an accusatory pleading or preliminary hearing transcript could support charging a defendant with one of the categorically excluded offenses, but the defendant has not been charged with that offense. by requiring the prosecution to state on the record why those charges were not sought and whether the prosecution has conferred with the victim about the charges filed. The Public Safety committee analysis notes that this bill, as introduced, would have rendered a defendant ineligible for diversion based on uncharged conduct shown in the pleading or preliminary hearing transcript, which the analysis notes raises due process concerns under the Sixth Amendment notice and jury trial guarantees. The current version of the bill is significantly narrower: it requires an on-the-record statement of the reasons for the charging decision, rather than rendering the defendant ineligible for diversion based on uncharged conduct. This bill also requires DOJ, upon completion of an investigation of a person who holds an elected office in which DOJ determines the person committed specified rape-related crimes, the victim was a minor, and the case is appropriate for prosecution, to bring criminal charges within 30 days, while preserving DOJ’s ability to file charges later.

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