SENATE COMMITTEE ON PUBLIC SAFETY

Senator Jesse Arreguín, Chair
2025 - 2026 Regular

Bill No:	AB 2273	**Hearing Date:**	June 23, 2026
Author:	Bains		
Version:	April 23, 2026		
Urgency:	No	**Fiscal:**	Yes
Consultant:	SJ		

Subject: ***Crimes: Scrivner Act***

HISTORY

Source: Author

Prior Legislation: AB 433 (Krell), failed passage in Assembly Public Safety, 2025
AB 1412 (Hart), Ch. 687, Stats. of 2023
AB 1323 (Menjivar), Ch. 646, Stats. of 2024
AB 455 (Quirk-Silva), Ch. 236, Stats. of 2023
SB 1223 (Becker), Ch. 735, Stats. of 2022
SB 666 (Stone), failed passage in Senate Public Safety Committee, 2019
SB 215 (Beall), Ch. 1005, Stats. of 2018
AB 1810 (Comm. on Budget), Ch. 34, Stats. of 2018

Support: Peace Officers Research Association of California

Opposition: ACLU California Action

Assembly Floor Vote: 68 - 0

PURPOSE

The purpose of this bill is to require a prosecutor to state on the record why specified charges were not sought when facts constituting offenses that would be statutorily excluded from mental health diversion are alleged in the complaint or disclosed at a preliminary hearing but the defendant is not charged with those offenses.

Existing law allows a court, in its discretion, and after considering the positions of the defense and prosecution, to grant pretrial mental health diversion to a defendant charged with a misdemeanor or a felony if the defendant specified eligibility and suitability requirements. (Pen. Code, § 1001.36, subd. (a).)

Existing law provides that a defendant is eligible for mental health diversion if both of the following criteria are met:

- The defendant suffers from a mental disorder as identified in the most recent edition of the Diagnostic and Statistical Manual of Mental Disorders, including, but not limited to, bipolar disorder, schizophrenia, schizoaffective disorder, or post-traumatic stress disorder, but excluding antisocial personality disorder and pedophilia. Requires the

defense to produce evidence of the defendant's mental disorder which must include a diagnosis or treatment by a qualified mental health expert within the last five years.
- The defendant's mental disorder was a significant factor in the commission of the charged offense, as provided. (Pen. Code, § 1001.36, subd. (b).)

Existing law requires the court, for any defendant who meet the eligibility criteria, to consider whether the defendant is suitable for mental health diversion. (Pen. Code, § 1001.36, subd. (c).)

Existing law provides that a defendant is suitable for mental health diversion if all of the following criteria are met:

- In the opinion of a qualified mental health expert, the defendant's symptoms of the mental disorder causing, contributing to, or motivating the criminal behavior would respond to mental health treatment.
- The defendant consents to diversion and waives their right to a speedy trial, unless a defendant has been found to be an appropriate candidate for diversion in lieu of commitment due to their mental incompetence and cannot consent to diversion or give a knowing and intelligent waiver of their right to a speedy trial;
- The defendant agrees to comply with treatment as a condition of diversion; or the defendant has been found to be an appropriate candidate for diversion in lieu of commitment for restoration of competency treatment and, as a result of the defendant's mental incompetence, cannot agree to comply with treatment.
- The defendant will not pose an unreasonable risk of danger to public safety—i.e., unreasonable risk of committing a super strike offense[1]—if treated in the community. In making this determination, the court may consider the opinions of the district attorney, the defense, or a qualified mental health expert, and may consider the defendant's treatment plan, violence and criminal history, the current charged offense, and any other factors that the court deems appropriate. (Pen. Code, § 1001.36, subds. (c)(1)-(4).)

Existing law contains a presumption that the defendant's diagnosed mental disorder was a significant factor in the commission of the offense unless there is clear and convincing evidence that it was not a motivating factor, causal factor, or contributing factor to the defendant's involvement in the alleged offense. Authorizes a court to consider any relevant and credible evidence, including, but not limited to, police reports, preliminary hearing transcripts, witness statements, statements by the defendant's mental health treatment provider, medical records, records or reports by qualified medical experts, or evidence that the defendant displayed symptoms consistent with the relevant mental disorder at or near the time of the offense. (Pen. Code § 1001.36, subd. (b)(2).)

Existing law excludes defendants from mental health diversion eligibility if they are charged with murder, voluntary manslaughter, an offense requiring sex offender registration (except for indecent exposure), or offenses involving weapons of mass destruction. (Pen. Code, § 1001.36, subd. (d).)

[1] The violent felonies known as "super strikes" include murder, attempted murder, solicitation to commit murder, assault with a machine gun on a police officer, possession of a weapon of mass destruction, and any serious felony punishable by death or life imprisonment, and specified sex offenses. (Pen. Code, §§ 667, subd. (e)(2)(C)(iv) & 1170.18, subd. (c).)

Existing law states that at any stage of the proceedings, the court may require the defendant to make a prima facie showing that the defendant will meet the minimum requirements of eligibility for diversion and that the defendant and the offense are suitable for diversion. (Pen. Code, § 1001.36, subd. (e).)

Existing law provides that the hearing on the prima facie showing is informal and may proceed on offers of proof, reliable hearsay, and argument of counsel. Authorizes the court to summarily deny the request for diversion or grant any other relief as may be deemed appropriate if a prima facie showing is not made. (Pen. Code, § 1001.36, subd. (e).)

Existing law defines "pretrial diversion" for purposes of mental health diversion as the postponement of prosecution, either temporarily or permanently, at any point in the judicial process from the point at which the accused is charged until adjudication, to allow the defendant to undergo mental health treatment, subject to the following conditions:

- The court is satisfied that the recommended inpatient or outpatient program of mental health treatment will meet the specialized mental health treatment needs of the defendant;
- The provider of the mental health treatment program in which the defendant has been placed must provide regular reports to the court, the defense, and the prosecutor on the defendant's progress in treatment; and,
- A defendant may be diverted no longer than two years if it is a felony, and one year if it is a misdemeanor. (Pen. Code, § 1001.36, subd. (f).)

Existing law requires the court to hold a hearing, after proper notice, to determine whether the criminal proceedings should be reinstated, the treatment should be modified, or the defendant should be conserved, if any of the following circumstances exist:

- The defendant is charged with an additional misdemeanor allegedly committed during the pretrial diversion and that reflects the defendant's propensity for violence;
- The defendant is charged with an additional felony allegedly committed during the pretrial diversion;
- The defendant is engaged in criminal conduct rendering him or her unsuitable for diversion; or,
- A qualified mental health expert opines that: the defendant is performing unsatisfactorily in the assigned program; or the defendant is gravely disabled, as defined. (Pen. Code, § 1001.36, subd. (g).)

Existing law requires the court to dismiss the criminal charges if the defendant has performed satisfactorily in diversion. Provides that a court may conclude that the defendant has performed satisfactorily if the defendant has substantially complied with the requirements of diversion, has avoided significant new violations of law unrelated to the defendant's mental health condition, and has a plan in place for long-term mental health care. (Pen. Code, § 1001.36, subd. (h).)

Existing law provides that upon successful completion of diversion, if the court dismisses the charges, the arrest upon which the diversion was based shall be deemed never to have occurred. Requires the court to order access to the record of the arrest restricted, as specified. Provides that the defendant who successfully completes diversion may indicate in response to any question concerning the defendant's prior criminal record that the defendant was not arrested or diverted

for the offense, except on an application for a position as a peace officer. (Pen. Code, § 1001.36, subds. (h) & (j).)

Existing law prohibits plea bargaining if the indictment or information charges the defendant with specified violent sex crimes unless there is insufficient evidence to prove the people's case, or testimony of a material witness cannot be obtained, or a reduction or dismissal would not result in a substantial change in sentence. Requires the district attorney to state on the record why a sentence under one of those sections was not sought at the time of presenting the agreement to the court. (Pen. Code, § 1192.7, subd. (a)(3).)

Existing law entitles victims, as part of the Victims' Bill of Rights, to reasonable notice of and to reasonably confer with the prosecuting agency, upon request, regarding, the arrest of the defendant if known by the prosecutor, the charges filed, the determination whether to extradite the defendant, and, upon request, to be notified of and informed before any pretrial disposition of the case. (Cal. Const., art I, § 28.)

Existing law establishes the Attorney General (AG) as the chief law officer of the state and states that 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 Attorney General shall have all the powers of a district attorney. (Cal. Const., art. V, § 13.)

This bill requires the prosecution, in cases for which the facts alleged in the accusatory pleading or disclosed in the preliminary hearing transcript would constitute any of the excluded enumerated offenses that make a defendant categorically ineligible for mental health diversion, and the defendant has not been charged with those offenses, to state on the record why those charges are not being sought and whether they have conferred with the victim about the charges filed.

This bill requires the Department of Justice (DOJ), upon completion of an investigation of a person who holds an elected office in which the department determines the person committed specified crimes relating to rape, that the victim was a minor, and that the case is appropriate for prosecution, to bring criminal charges against that person within 30 days.

This bill specifies that a failure to bring charges within 30 days does not preclude prosecution at a later date.

This bill provides that it shall be known, and may be cited, as the Sexual Contact and Rape Investigation, Victims' New Enforcement Rights Act or the SCRIVNER Act.

COMMENTS

1. Need For This Bill

According to the author:

> Justice should not work differently for the rich, the powerful, or the politically connected. Yet when an elected official is accused of sexually abusing a child, lengthy delays, unexplained charging decisions, and lack of transparency can

leave victims and the public wondering whether everyone is truly held to the same standard under the law.

The SCRIVNER Act is about restoring trust in a system that depends on public confidence. When the Department of Justice determines that an elected official committed a serious sexual offense against a minor and that the case should be prosecuted, charges should not languish for months without action. And when prosecutors decline to pursue more serious charges supported by the facts, they should be required to explain why and disclose whether the victim was consulted.

This bill requires accountability and transparency in cases where the stakes could not be higher. Victims deserve answers. The public deserves confidence that justice is being applied fairly. And elected officials should never receive special treatment because of their position or influence.

2. Mental Health Diversion

In 2018, the Legislature enacted Penal Code sections 1001.35 and 1001.36 which created a pretrial diversion program for certain defendants with mental health disorders. (Com. on Budget, Ch. 34, Stats. of 2018.) Pretrial diversion "allows for the suspension of criminal proceedings and potential dismissal of charges upon successful completion of mental health treatment." (*Sarmiento v. Superior Court* (2024) 98 Cal.App.5th 882, 890 (*Sarmiento*).) The statute expressly states the purpose of this legislation was to "[i]ncrease[] diversion of [such] individuals" based on concerns that "incarceration only serves to aggravate [their] preexisting conditions and does little to deter future lawlessness." (Sen. Com. on Public Safety, Analysis of Sen. Bill No. 215 (2017–2018 Reg. Sess.) as amended Jan. 3, 2018, p. 4.) Certain offenses are ineligible for pretrial diversion, including murder, rape, and registerable sex offenses, among others. (Pen. Code, § 1001.36, subd. (d).)

Under current law, Penal Code section 1001.36, subdivision (b), provides that a defendant is eligible for mental health diversion if both of the following criteria are met: the defendant suffers from a qualifying mental disorder, as evidenced by a diagnosis or treatment for a diagnosed mental disorder within the last five years by a qualified mental health expert; and, the disorder played a significant role in the commission of the charged offense. The second prong is presumptively satisfied unless there is clear and convincing evidence that the disorder was "not a motivating factor, causal factor, or contributing factor to the defendant's involvement in the alleged offense." (Pen. Code, § 1001.36, subd. (d).)

Once eligibility is established, a trial court must consider whether the defendant is suitable for pretrial diversion. (Pen. Code, § 1001.36, subd. (c).) A defendant is suitable if: (1) in the opinion of a qualified mental health expert, the defendant's mental health disorder would respond to treatment; (2) the defendant consents to diversion and agrees to waive their speedy trial rights; (3) the defendant agrees to comply with treatment requirements; and (4) the defendant will not pose an unreasonable risk of danger to public safety as defined in Penal Code section 1170.18 (i.e., an unreasonable risk of committing certain violent felonies known as super strikes), if treated in the community. (Pen. Code, § 1001.36, subd. (c)(1)-(4).)

The maximum period of diversion is two years if the defendant is charged with a felony, and one year if the defendant is charged with a misdemeanor. (Pen. Code, § 1001.36, subd. (f).) If the defendant performs satisfactorily in diversion, the trial court must dismiss the criminal charges

that were the subject of the criminal proceedings at the time of the initial diversion. (Pen. Code, § 1001.36, subd. (h).)

Existing law gives the trial court discretion to grant diversion if the minimum standards are met, and, correspondingly, to refuse to grant diversion even though the defendant meets all of the requirements. (J. Richard Couzens, *Mental Health Diversion Under Penal Code Sections 1001.35 and 1001.36* (May 2024), p. 14 <https://capcentral.org/wp-content/uploads/2023/12/Judge-Couzens-Mental-Health-Diversion-MAY-2024.pdf>; see also *Vaughn v. Superior Court* (2024) 105 Cal.App.5th 124, 134.) But this "residual" discretion must be exercised "'consistent with the principles and purpose of the [mental health diversion].'" (*People v. Qualkinbush* (2022) 79 Cal.App.5th 879, 891, quoting *Wade v. Superior Court* (2019) 33 Cal.App.5th 694, 710; see also *Sarmiento, supra*, 98 Cal.App.5th at p. 892.) A court abuses its discretion when it makes an arbitrary or capricious decision by applying the wrong legal standard. (*Vaughn, supra,* 105 Cal.App.5th at p. 135.) For example, in *People v. Whitmill* (2022) 86 Cal.App.5th 1138, 1151, the Court of Appeal reversed the denial of mental health diversion because substantial evidence did not support finding that the defendant posed an unreasonable risk to public safety. The Court of Appeal reasoned it was "unclear" how the trial court determined that the expert opinion did not find a low risk for future dangerousness when the doctor expressly concluded that the appellant fit the mental health eligibility criteria. (*Ibid.*) In *People v. Pacheco* (2022) 75 Cal.App.5th 207, on the other hand, the Court of Appeal held the trial court properly denied mental health diversion to a defendant who started a brush fire. The court concluded the defendant, who suffered from schizophrenia and was addicted to methamphetamine, posed an unreasonable risk of danger to public safety. A clinical psychologist opined that if the defendant returned to using methamphetamine, he would become unstable and psychotic and be likely to reoffend, and the record supported that he would not refrain from using methamphetamine if treated in the community.

3. Scrivner Case

This bill was introduced in response to the Zachary Scrivner case. Scrivner is a former Kern County Supervisor who was charged in February 2025 with three felony counts of Penal Code section 273a, subdivision (a), alleging child abuse, and two felony counts of Penal Code section 30605, subdivision (a), alleging possession of assault weapons.[2] The prosecuting agency was the California DOJ which agreed to review the investigation into Scrivner due to a conflict of interest because the Kern County District Attorney is the defendant's aunt.[3] At the time of the offense, Scrivner had served as Supervisor in Kern County for 13 years before resigning in August of 2024, and served a prior term on the Bakersfield City Council.

According to the Kern County Sheriff's Office, the District Attorney had called the Sheriff and reported that Scrivner was experiencing a psychotic episode at his home.[4] When deputies arrived at Scrivner's home, they found that he had fought with his children and was stabbed by one of

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[2] Office of the Attorney General, *Attorney General Bonta Announces Felony Charges Filed Against Former Kern County Supervisor* (Feb. 14, 2025), available at <https://oag.ca.gov/news/press-releases/attorney-general-bonta-announces-felony-charges-filed-against-former-kern-county>

[3] Celine Stevens, *California DOJ agrees to review investigation into Supervisor Zack Scrivner* (May 2, 2024), available at <https://bakersfieldnow.com/news/local/california-doj-agrees-to-review-investigation-into-zack-scrivner>

[4] Melissa Gomez, *California law let a politician avoid jail for child abuse charges. Lawmakers are furious* (Jan. 8, 2026), available at <https://www.latimes.com/california/story/2026-01-08/zack-scrivner-mental-health-diversion-lawmakers-angry-child-abuse>

them amid allegations that he had sexually assaulted one of the other children.[5] Although information in DOJ's complaint alleged that Scrivner had committed a lewd act on one of his children who was under the age of 14 after he had consumed "alcohol, Ambien, benzos (benzodiazepines) and cocaine metabolites in his system," he was charged with felony child abuse rather than lewd acts on a minor under the age of 14.[6] The superior court judge overseeing the case granted the defense motion for Scrivner to enter into pretrial mental health diversion program based on a diagnosis that he is suffering from mental health disorders, including alcohol-use disorder, depression, and anxiety.[7] The court noted that the prosecution offered no alternative to Scrivner's medical diagnosis that had been submitted to the court in support of the motion.[8] During the period of diversion, Scrivner is required to continue with treatment at a psychiatric clinic, continue to see a psychiatric practitioner at a minimum of every 6 months, and comply with psychiatric medications as prescribed by treating medical professionals.[9] He must also refrain from drug and alcohol use and is subject to random drug tests.[10] If he successfully completes the program, the charges will be dismissed.[11]

DOJ has filed a writ of mandate for the Court of Appeal to review the superior court's grant of mental health diversion for Scrivner arguing that there is clear and convincing evidence that Scrivner's mental health disorders were not a motivating, causal, or contributing factor[12] in the weapons offenses. State legislators have pushed to get answers from DOJ regarding why Scrivner was not charged with lewd acts on a child which would have made him statutorily ineligible for diversion. To date, no clear answer has been provided.[13]

4. Effect of This Bill

This bill requires the prosecution, for purposes of mental health diversion, whenever the facts alleged in the accusatory pleading or disclosed in the preliminary hearing transcript would constitute any of the excluded offenses that make a defendant categorically ineligible for diversion, and the defendant has not been charged with those offenses, to state on the record why those charges are not being sought and whether they have conferred with the victim about the charges filed. 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 crimes relating to rape, that the victim was a minor, and that the case is appropriate for prosecution, to bring criminal charges against that person within 30 days. Notably, the bill states that the failure to bring prosecution within 30 days does not preclude prosecution at a later date.

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[5] *Ibid*.
[6] *Ibid*.; Pen. Code, §§ 288, subd. (a), 273a, subd. (a).
[7] Peter Segall, *Scrivner granted mental health diversion* (Dec. 19, 2025), available at <https://www.bakersfield.com/news/scrivner-granted-mental-health-diversion/article_1fb33d7d-9c7f-4e51-8e5b-4d8273c571e1.html>.
[8] *Ibid*.
[9] *Ibid*.
[10] *Ibid*.
[11] Penal Code section 1001.36, subd. (h).
[12] Jason Kotowski, *Petition challenging Scrivner's mental health diversion rejected, attorney says* (Feb. 18, 2026), available at <https://www.kget.com/news/zack-scrivner-investigation/ags-office-files-petition-challenging-scrivners-mental-health-diversion/>.
[13] Connor Dore, *Kern County lawmakers join in bipartisan push for more transparency in Scrivner case* (Jan. 8, 2026), available at <https://www.kget.com/news/zack-scrivner-investigation/kern-county-lawmakers-join-in-bipartisan-push-for-more-scrivner-transparency/?ipid=promo-link-block3>.

5. Argument in Support

The Peace Officers Research Association of California write:

AB 2273 strengthens existing law by ensuring that individuals who commit lewd acts against a child under 14 years of age cannot avoid accountability simply because they were under the influence of a mind- or mood-altering substance. The bill closes a gap in current law by allowing prosecution in circumstances where intoxication may otherwise complicate proof of specific sexual intent.

Crimes against children demand clear and enforceable standards that prioritize victim protection and accountability. AB 2273 provides law enforcement and prosecutors with a more practical and effective framework to address these serious offenses and help ensure offenders are held responsible for their actions.

6. Argument in Opposition

According to the ACLU California Action:

> AB 2273 would … require the prosecution to state on record why certain charges are not being sought on uncharged allegations drawn from preliminary hearing transcripts or the accusatory pleading. This shift raises serious concerns. By forcing prosecutors to publicly justify why they do not pursue more severe charges that disqualify the defendant from diversion, this new requirement creates intense political and administrative pressure to simply file harsher chargers. This seems intended to pressure prosecutors away from using their discretion to keep people on a path towards rehabilitation by depriving people of diversion.
>
> Moreover, AB 2273 would require the DOJ to file charges within 30 days in certain cases involving elected officials and minor victims. This provision appears to be tailored to a specific factual scenario and does not reflect a neutral, statewide standard. Because the bill provides that failure to comply with this deadline does not preclude prosecution, the provision risks being largely symbolic while introducing additional complexity and potential inconsistency into prosecutorial decision-making.
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> As amended, AB 2273 restricts the exact tool we need more in our justice system. By forcing arbitrary speed and politically weaponized reporting, it moves California away from rehabilitation and back towards an era of mass incarceration.

-- END --