Date of Hearing: April 7, 2026
Counsel: Dustin Weber

ASSEMBLY COMMITTEE ON PUBLIC SAFETY
Nick Schultz, Chair

AB 2286 (Bryan) – As Introduced February 19, 2026

SUMMARY: Clarifies that the misdemeanor for willfully refusing or neglecting to allow an attorney to visit a prisoner when a proper application is made applies to an officer having charge of a prisoner when the prisoner is in jail, prison, medical setting, or hospital.

EXISTING LAW:

1) States that a defendant shall be taken before a magistrate without unnecessary delay, and, in any event, within 48 hours after his or her arrest, except as provided. (Pen. Code, § 825, subd. (a)(1).)

2) Establishes that after the arrest, any attorney may, at the request of the prisoner or any relative of the prisoner, visit the prisoner. Any officer having charge of the prisoner who willfully refuses or neglects to allow that attorney to visit a prisoner is guilty of a misdemeanor. Any officer having a prisoner in charge, who refuses to allow the attorney to visit the prisoner when proper application is made, shall forfeit and pay to the party aggrieved the sum of $500, to be recovered by action in any court of competent jurisdiction. (Pen. Code, § 825, subd. (b).)

3) Provides that any physician and surgeon, including a psychiatrist, licensed to practice in this state, or any psychologist licensed to practice in this state who holds a doctoral degree and has at least two years of experience in the diagnosis and treatment of emotional and mental disorders, who is employed by the prisoner or his or her attorney to assist in the preparation of the defense, shall be permitted to visit the prisoner while he or she is in custody. (Pen. Code, § 825.5.)

4) Specifies that prosecution for an offense is commenced when any of the following occurs:

    a) An indictment or information is filed.

    b) A complaint is filed charging a misdemeanor or infraction.

    c) The defendant is arraigned on a complaint that charges the defendant with a felony.

    d) An arrest warrant or bench warrant is issued, provided the warrant names or describes the defendant with the same degree of particularity required for an indictment, information, or complaint. (CITATION)

5) States that a proceeding for the examination before a magistrate of a person on a charge of a felony must be commenced by written complaint under oath subscribed by the complainant

and filed with the magistrate. Such complaint may be verified on information and belief. (Pen. Code, § 806.)

6) States that a person who is specified or designated in a warrant of arrest for a misdemeanor offense may be released upon the issuance of a citation, in lieu of physical arrest, unless the person requires medical examination or medical care or was otherwise unable to care for his or her own safety. (Pen. Code, § 827.1, subd. (f).)

7) Establishes that when the defendant first appears for arraignment on a charge of having committed a public offense, the magistrate shall immediately inform the defendant of the charge against him or her, and of his or her right to the aid of counsel in every stage of the proceedings. (Pen. Code, § 858, subd. (a).)

8) States that at the time the defendant appears before the magistrate for arraignment, if the public offense is a felony to which the defendant has not pleaded guilty, as specified, the magistrate, immediately upon the appearance of counsel, or if none appears, after waiting a reasonable time therefor, shall set a time for the examination of the case and shall allow not less than two days, excluding Sundays and holidays, for the district attorney and the defendant to prepare for the examination. (Pen. Code, § 859b.)

9) Defines the following persons as magistrates:

   a) The judges of the Supreme Court.

   b) The judges of the courts of appeal.

   c) The judges of the superior courts. (Pen. Code, § 808.)

FISCAL EFFECT: Unknown

COMMENTS:

1) **Author's Statement**: According to the author, “No incarcerated person should lose their constitutional right to meet with their attorney because they are receiving medical care. AB 2286 clarifies that when someone in custody is being held in a medical setting, their attorney must still be allowed to meet with them so they can meaningfully participate in their defense. Ensuring consistent access to counsel protects due process, strengthens the integrity of our justice system, and helps ensure that people facing serious medical issues are not further disadvantaged in their legal proceedings.”

2) **Effect of the Bill**: AB 2286 clarifies additional situations where willful or neglectful denial of access to counsel could be punished as a misdemeanor and with a fine.

   The author notes, “defense attorneys and public defenders have [experienced] refusal from sheriffs to see their clients while they were hospitalized.” They additionally cite the importance of clarifying in statute that the sheriffs or other personnel looking after incarcerated people should not be authorized to block a person’s access to counsel in a hospital or medical setting.

This bill would modify Section 825(b) of the Penal Code to clarify that a law enforcement officer with charge over a prisoner in a hospital or medical setting is subject to a misdemeanor penalty and $500 fine should the officer willfully refuse or neglect access to an attorney to visit the prisoner following proper application. The bill eliminates parts of the first sentence of Section 825(b) that state an attorney requesting a visit with a prisoner must be an attorney of record authorized to practice in California, a relative of the prisoner can make the request for the attorney visit, and that the authorization to visit the prisoner begins after the arrest.

Eliminating the "after the arrest" language is unlikely to create any differences on the ground as someone being a "prisoner" essentially presupposes the person already has been "arrest[ed]." The removal of the language permitting a relative to request an attorney visit the prisoner is probably also unlikely to change much in practice, given California regulations already authorize relatives to make these requests. (Cal. Code Regs., tit. 15, § 3178, subd. (d)(5).) The elimination of the Section 825(b) language also suggests that any licensed attorney, regardless of the jurisdiction where the attorney is licensed, would be permitted to request a visit with a prisoner in a hospital or medical setting.

It is unclear how much impact this bill will have because there appears to be no statewide reliable data tracking incidents where a prisoner is denied access to counsel in a hospital or medical setting. By establishing clear punishment in statute for denying access to counsel in hospitals and medical settings, however, this bill could help reduce or eliminate even anecdotal reports of officers denying a prisoner's access to counsel under these conditions.

3) **The Right to Counsel**: The accused's constitutional right to a speedy and public trial includes the right of a person in police custody to be promptly brought before a magistrate and formally charged. (U.S. Const., 6th Amend.; Cal. Const., art. I, § 15; *Youngblood v. Gates* (1988) 200 Cal.App.3d 1302, 1308-1309.) An accused's right to a speedy appearance before a magistrate is implemented by Section 825 of the Penal Code. (*Ibid*; Pen. Code, § 825, subd. (a).) The primary reasons for the requirement of prompt arraignment are to "prevent secret police interrogation, to place the issue of probable cause for the arrest before a judicial officer, to provide the defendant with full advice as to his rights and an opportunity to have counsel appointed, and to enable him to apply for bail or for habeas corpus when necessary." (*People v. Pettingill* (1978) 21 Cal.3d 231, 244.)

The right of an accused, confined in *any* place of detention, to have an opportunity to consult freely with his counsel is "one of the fundamental rights guaranteed by the American criminal law – a right that no legislature or court can ignore or violate." (*In re Application of Rider* (1920) 50 Cal.App. 797, 799 [italics added].) In California, the right of the accused to consult with counsel is guaranteed by our Constitution. (*Ibid.*)

While hospitals and their staff may restrict access to counsel in particular cases, like where such a meeting would interfere with hospital operations or compromise the person's medical care, no attorney should be required to give the officer in charge of the prisoner the reason why he desired a private consultation with his client. (*In re Application of Snyder* (1923) 62 Cal.App. 697, 701.) Requiring an attorney to give the officer in charge the reason why he desires a private interview with his client could give such officer the power to determine whether such reasons were sufficient or not to grant such an interview. (*Ibid.*) To give the officer the right to demand the reason for a private interview with counsel in these situations,

and to adopt such a rule, would improperly substitute the judgment of the officer for the judgment of the prisoner and his counsel. (*Ibid.*)

Our Supreme Court found that a delay in being taken before a magistrate was valid where that delay only lasted seven days and appearance before a magistrate before the accused was medically cleared would have jeopardized his health. (*People v. Lane* (1961) 56 Cal.2d 773, 780-781.) Importantly, however, the court noted in this case that the delay was not the product of police indifference nor any attempt to prevent the defendant from communicating with loved ones or counsel. (*Id.* at p. 781.) In another case, a court observed that the law did not require booking of the accused to be completed being the accused is given access to counsel, and the accused is not required to state they want to see a specific attorney. (*Beltram v. Appellate Department* (1977) 66 Cal.App.3d 711, 716-718.) Regarding whom qualifies as the "aggrieved" party, the court noted that because the statute clearly is intended to protect the right of the accused to confer with counsel, the accused is the aggrieved party. (*Beltram, supra,* at p. 717-18.)

Writing in dissent in a case involving the constitutional rights of criminal defendants, the estimable Justice Thurgood Marshall noted that where "a practical advantage is achieved only at the cost of permitting the police to disregard the limitations that the Constitution places on their behavior, [this is] a cost that a constitutional democracy cannot long absorb." (*Schneckloth v. Bustamonte* (1973) 412 U.S. 218, 288 [Marshall, J. dissenting].) The right to counsel is foundational to our criminal justice system and this system is currently reeling, particularly from myriad federal attacks. Insofar as the right to counsel is not already secured under California and federal law, in the context of a prisoner requesting consultation with an attorney in a hospital or medical setting, AB 2286 could help fortify that right.

4) **Argument in Support**: According to *La Defensa*, "I write to express our strong support for AB 2286 (Bryan), which ensures access to counsel for incarcerated people who are hospitalized.

"AB 2286 (Bryan) clarifies that when an incarcerated person is transferred to a hospital and that attorneys must be allowed to meet with their clients regardless of whether the client is held in a jail, prison, or hospital setting.

"California law guarantees that people in custody have the right to consult with their attorney. In practice, however, this right is often denied when a person is transferred to a hospital. Defense attorneys across the state report that sheriffs frequently refuse attorney visits, decline to share basic information about a client's status, and at times ignore court orders authorizing access.

"When attorneys cannot meet with hospitalized clients, cases stall and courts are left without critical information needed to move proceedings forward. Attorneys must be able to assess a client's wellbeing, make informed litigation decisions, obtain necessary waivers, and advise courts on whether proceedings can continue. Denying access undermines due process and wastes judicial resources.

"AB 2286 (Bryan) provides a clear and practical solution. For these reasons, we support AB 2286."

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

6) **Related Legislation**:

   a) AB 1905 (Schultz) would prohibit a law enforcement officer from seeking statements or information while working undercover, or by individuals working in collaboration with, or acting as agents of, law enforcement, from a person who was 17 years of age or younger during the commission of crime and who is in custody. AB 1905 is pending a vote on the Assembly floor.

   b) SB 1401 (Stern) would authorize, among other things, a county behavioral health agency and jail medical provider to share confidential medical records and other relevant information with the court for the purpose of determining likelihood of eligibility for behavioral health services and programs pursuant to the above provisions. SB 1401 is pending hearing in the Senate Public Safety Committee.

7) **Prior Legislation**:

   a) SB 821 (Arreguin), of the 2025-26 Legislative Session, would have required the court to promptly, but no later than 48 hours after a warrantless arrest, review the basis for the arrest and make an initial determination whether probable cause exists that an offense has been committed and that the arrested person committed it if the defendant remains in custody. SB 821 was held in the Senate Appropriations Committee.

   b) AB 2215 (Bryan), Chapter 954, Statutes of 2024, authorized an arresting officer to release an arrested person from custody without bringing the person before a magistrate if the person is, subsequent to being arrested, delivered or referred to a public health or social service organization that provides specified services and no further proceedings are desirable.

   c) AB 61 (Bryan), of the 2023-24 Legislative Session, would have required a person to be taken before the magistrate within 48 hours of their arrest, and would have required that the court make an initial determination of probable cause, as specified, no more than 48 hours after the warrantless arrest. AB 61 died on the inactive file on the Assembly floor.

   d) AB 1209 (Jones Sawyer), of the 2023-24 Legislative Session, would have required representation by counsel to commence as soon as feasible after being notified of a person's arrest, but always within 24 hours after booking or sufficiently before the arraignment to allow the provision of meaningful representation. AB 1209 was held in suspense in the Assembly Appropriations Committee.

REGISTERED SUPPORT / OPPOSITION:

Support
ACLU California Action
All of US or None (HQ)
All of US or None Orange County
California Attorneys for Criminal Justice
California Coalition for Women's Prisoners
California Public Defenders Association
Center on Juvenile and Criminal Justice
Communities United for Restorative Youth Justice (CURYJ)
Courage California
Ella Baker Center for Human Rights
Families Inspiring Reentry & Reunification 4 Everyone (FIR4E)
Justice2jobs Coalition
LA Defensa
Legal Services for Prisoners With Children
Local 148 Los Angeles County Public Defender's Union
Rubicon Programs
San Francisco Public Defender
San Quentin Skunkworks
Smart Justice California, a Project of Beyond Impact
The W. Haywood Burns Institute
2 Private Individuals

Opposition

None submitted.

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