
CONSENT

Bill No: AB 2286
Author: Bryan (D)
Introduced: 2/19/26
Vote: 21

SENATE PUBLIC SAFETY COMMITTEE: 6-0, 6/9/26
AYES: Arreguín, Seyarto, Caballero, Cortese, Pérez, Wiener

ASSEMBLY FLOOR: 68-0, 4/16/26 (Consent) - See last page for vote

SUBJECT: Criminal procedure: attorney visits: medical settings

SOURCE: Los Angeles County Public Defender's Union, Local 148

DIGEST: This bill clarifies that existing penalties for peace officers who refuse to allow an attorney to visit a prisoner apply if a prisoner is in a jail, prison, hospital or medical setting.

ANALYSIS:

Existing law:

- 1) Provides that in all criminal prosecutions, the accused shall enjoy the right to a speedy and public trial by an impartial jury of the State and district wherein the crime shall have been committed and to have the assistance of counsel for his defense. (U.S. Const., Amend. 6)
- 2) Provides that the defendant in a criminal cause has the right to a speedy public trial, to compel attendance of witnesses in the defendant's behalf, to have the assistance of counsel for the defendant's defense, to be personally present with counsel, and to be confronted with the witnesses against the defendant. (California (Cal.) Constitution (Const.), art. I, §§ 15, 24.)
- 3) Provides that in a criminal action the defendant is entitled to be allowed counsel as in civil actions, or to appear and defendant in person and with counsel. (Penal (Pen.) Code, § 686.)

- 4) Provides that when a complaint is filed with a magistrate charging a felony originally triable in the superior court of the county in which he or she sits, if, and only if, the magistrate is satisfied from the complaint that the offense complained of has been committed and that there is reasonable ground to believe that the defendant has committed it, the magistrate shall issue a warrant for the arrest of the defendant, except that, upon the request of the prosecutor, a summons instead of an arrest warrant shall be issued. (Pen. Code, § 813, subd. (a).)
- 5) Provides that an arrest warrant shall be directed generally to any peace officer, or to any public officer or employee authorized to serve process where the warrant is for a violation of a statute or ordinance which such person has the duty to enforce, in the state, and may be executed by any of those officers to whom it may be delivered. (Pen. Code, § 816.)
- 6) Provides that if the offense charged is a felony, and the arrest occurs in the county in which the warrant was issued, the officer making the arrest must take the defendant before the magistrate who issued the warrant or some other magistrate of the same county. (Pen. Code, § 821.)
- 7) Provides that an arrest is taking a person into custody in a case and in the manner authorized by law, and that an arrest may be made by a peace officer or by a private person. (Pen. Code, § 834.)
- 8) Provides that an arrest is made by an actual restraint of the person, or by submission to the custody of an officer, and that the person arrested may be subjected to such restraint as is reasonable for his arrest and detention. (Pen. Code, § 835.)
- 9) 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, excluding Sundays and holidays. (Pen. Code, § 825, subd. (a)(1).)
- 10) Provides 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).)

This bill:

- 1) Strikes the provision stating that after the arrest, any attorney may visit the prisoner at the request of the prisoner or any relative of the prisoner.
- 2) Specifies that the misdemeanor for willfully refusing or neglecting to allow an attorney to visit a prisoner applies when the prisoner is in a jail, prison, medical setting, or hospital.

Comments

This bill relates specifically to access to counsel by arrestees, defendants and prisoners in medical settings. It is well established that 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, as to do so could give the officer the power to determine whether such reasons were sufficient to grant such an interview, which would improperly substitute the judgment of the officer for the judgment of the prisoner and his counsel. Indeed, the right an accused person, confined to 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."

Beyond its constitutional guarantees regarding the right to counsel, California law – Penal Code section 825 subdivision (b) – specifies that after an arrest, any attorney licensed in the state may, at the request of the prisoner or a relative of the prisoner visit the prisoner. Moreover, existing law makes it a crime, punishable as a misdemeanor, for any peace officer having charge of the prisoner to refuse or neglect to allow that attorney to visit the prisoner, and allows the "party aggrieved" to recover from that officer damages in the amount of \$500. California case law establishes that the statute does not require that booking be completed in order for the right to attach, and that, because the statute was enacted to "protect the historic rights of the accused to have counsel, the "party aggrieved" clearly refers to the prisoner, not the attorney.

The author asserts that "defense attorneys and public defenders have [experienced] refusal from sheriffs to see their clients while they were hospitalized" and stresses the importance of clarifying in statute that peace officers looking after incarcerated people be specifically disallowed from blocking a person's access to counsel in a hospital or medical setting. Accordingly, this bill further clarifies the application of section 825(b), namely by specifying that an officer having charge of a prisoner in

a “jail, prison, medical setting or hospital,” is subject to criminal liability under that section.

FISCAL EFFECT: Appropriation: No Fiscal Com.: No Local: No

SUPPORT: (Verified 6/9/26)

Los Angeles County Public Defender’s Union, Local 148 (source)

ACLU California Action

Bridges of Hope CA

California Association of Licensed Investigators

California Attorneys for Criminal Justice

California Civil Liberties Advocacy

California Coalition for Women Prisoners

California Community Foundation

California Public Defenders Association

Communities United for Restorative Youth Justice

Courage California

Drug Policy Alliance

Ella Baker Center for Human Rights

Felony Murder Elimination Project

Initiate Justice

Justice2Jobs Coalition

La Defensa

Restoring Hope California

Rubicon Programs

San Francisco Public Defender

San Quentin Skunkworks

Sister Warrior Freedom Coalition

Smart Justice

Uncommon Law

OPPOSITION: (Verified 6/9/26)

None received

ASSEMBLY FLOOR: 68-0, 4/16/26

AYES: Addis, Aguiar-Curry, Ahrens, Alanis, Alvarez, Ávila Farías, Bains, Bauer-Kahan, Bennett, Boerner, Bryan, Calderon, Caloza, Carrillo, Castillo, Chen, Connolly, Davies, DeMaio, Elhawary, Ellis, Fong, Gabriel, Gallagher, Garcia, Gipson, Jeff Gonzalez, Mark González, Hadwick, Haney, Jackson, Johnson, Kalra, Krell, Lackey, Lee, Lowenthal, Macedo, McKinnor, Muratsuchi, Nguyen,

Ortega, Pacheco, Patel, Patterson, Pellerin, Petrie-Norris, Quirk-Silva, Ramos, Ransom, Michelle Rodriguez, Rogers, Blanca Rubio, Sanchez, Schultz, Sharp-Collins, Solache, Soria, Stefani, Ta, Tangipa, Valencia, Wallis, Ward, Wicks, Wilson, Zbur, Rivas

NO VOTE RECORDED: Arambula, Berman, Bonta, Dixon, Flora, Harabedian, Hart, Hoover, Irwin, Papan, Celeste Rodriguez, Schiavo

Prepared by: Alex Barnett / PUB. S. /
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**** END ****