
SENATE COMMITTEE ON PUBLIC SAFETY

Senator Jesse Arreguín, Chair
2025 - 2026 Regular

Bill No: AB 2304 **Hearing Date:** June 30, 2026
Author: Lackey
Version: June 24, 2026 Amended
Urgency: No **Fiscal:** Yes
Consultant: AB

Subject: *Social workers*

HISTORY

Source: Author

Prior Legislation: AB 866 (Rubio), Ch. 936, Stats. of 2023
AB 1544 (Lackey), not heard in Senate Public Safety, 2023
SB 47 (Roth), not heard in Senate Public Safety, 2023
AB 31 (Lackey), held in Assembly Appropriations, 2021
AB 1450 (Lackey), failed in Senate Public Safety, 2019

Support: Los Angeles County District Attorney's Office; Minted Content

Opposition: Los Angeles Dependency Lawyers

Assembly Floor Vote: 78 - 0

PURPOSE

The purpose of this bill is to clarify that a social worker employed by a county child welfare department is not an officer for the purposes of the crime of destroying, altering or falsifying public records, which imposes a higher penalty on public officers, and to require social workers to obtain specified medical care for a minor under certain circumstances.

Existing law provides that if a person is taken into temporary custody, as specified, and is in need of medical, surgical, dental, or other remedial care, the social worker may, upon the recommendation of the attending physician and surgeon or, if the person needs dental care and there is an attending dentist, the attending dentist, authorize the performance of the medical, surgical, dental, or other remedial care. (Welf. & Inst. Code, § 369, subd. (a)(1).)

Existing law provides that if it appears that a child, as specified, requires immediate emergency medical, surgical, or other remedial care in an emergency situation, that care may be provided by a licensed physician and surgeon or, if the child needs dental care in an emergency situation, by a licensed dentist, without a court order and upon authorization of a social worker. (Welf. & Inst. Code, § 369, subd. (d)(1).)

Existing law requires the social worker to make reasonable efforts to obtain the consent of, or to notify, the parent, guardian, or person standing in loco parentis prior to authorizing emergency medical, surgical, dental, or other remedial care. (Welf. & Inst. Code, § 369, subd. (d)(2).)

Existing law specifies that if the court orders the performance of a medical, surgical, dental, or other remedial care, the court may also make an order authorizing the release of information concerning that care to a social worker, parole officer, or other qualified individual or agency caring for or acting in the interest and welfare of the child under order, commitment, or approval of the court. (Welf. & Inst. Code, § 369, subd. (e).)

Existing law states that defined laws do not limit the right of a parent, guardian, or person standing in loco parentis, who has not been deprived of the custody or control of the child by order of the court, in providing a medical, surgical, dental, or other remedial treatment recognized or permitted under the laws of this state. (Welf. & Inst. Code, § 369, subd. (g).)

Existing law provides that every person who upon any trial, proceeding, inquiry, or investigation whatever, authorized or permitted by law, offers in evidence, as genuine or true, any book, paper, document, record, or other instrument in writing, knowing the same to have been forged or fraudulently altered or ante-dated, is guilty of felony. (Pen. Code, § 132.)

Existing law provides that every person guilty of preparing any false or ante-dated book, paper, record, instrument in writing, or other matter or thing, with intent to produce it, or allow it to be produced for any fraudulent or deceitful purpose, as genuine or true, upon any trial, proceeding, or inquiry whatever, authorized by law, is guilty of felony. (Pen. Code, § 134.)

Existing law provides that that every officer having the custody of any record, map, or book, or of any paper or proceeding of any court, filed or deposited in any public office, or placed in his or her hands for any purpose, is punishable by imprisonment for two, three, or four years if, as to the whole or any part of the record, map, book, paper, or proceeding, the officer willfully does or permits any other person to do any of the following:

- Steal, remove, or secrete.
- Destroy, mutilate, or deface.
- Alter or falsify. (Gov. Code, § 6200.)

Existing law provides that every person not an officer who is guilty of the acts specified above, is guilty of a crime punishable as a wobbler. (Gov. Code, § 6201.)

Existing law provides that every officer authorized by law to make or give any certificate or other writing is guilty of a misdemeanor if he or she makes and delivers as true any certificate or writing containing statements which he or she knows to be false. (Gov. Code, § 6203, subd. (a).)

Existing law provides that, notwithstanding any other statute of limitations, or any other provision of law, prosecution for a violation of this offense shall be commenced within four years after discovery of the commission of the offense, or within four years after the completion of the offense, whichever is later. (Gov. Code, § 6203, subd. (b).)

This bill requires a social worker to secure care for a child when a petition has been filed with a court to adjudge the minor a dependent, and it reasonably appears the minor needs emergency medical treatment.

This bill specifies that the care provided pursuant to the above provision may be provided without a court order.

This bill specifies that for the purposes of the crime of stealing, altering, falsifying or destroying a public record, a social worker employed by a county welfare department is not an officer.

COMMENTS

1. Need for This Bill

According to the author:

The death of Gabriel Fernandez served as a wakeup call to focus our collective conscious on the systemic failure to protect innocent children. It revealed that there are many cracks within the child welfare system that malign the interest of children. Over the years, multiple people have made the statement that if he was just seen by one medical professional, all of this could have been prevented. AB 2304 helps to ensure this statement isn't said about another child by requiring social workers to have children seen by a medical professional in emergency situations.

2. Gabriel Fernandez Case and Effect of This Bill

The impetus for this measure, as well as its namesake, Gabriel's Law, are rooted in the tragic case of Gabriel Fernandez, who died in 2013 after months of abuse at the hands of his mother and her boyfriend. After a trial in 2017, Gabriel's mother and her boyfriend received sentences of life without the possibility of parole and death, respectively. In addition, four social workers were charged with felony child abuse and falsifying public records, with prosecutors alleging that two caseworkers and their supervisors ignored evidence of repeated abuse and minimized Gabriel's injuries.¹ The social workers sought to have the charges dismissed, and ultimately appealed an order by the trial court judge upholding the charges.² On appeal, justices of the Second District California Court of Appeal reasoned that because the child abuse charge required prosecutors to prove that the social workers either had the duty and ability to control Gabriel's abusers or had custody or control of Gabriel, and the social workers never had that duty nor care or custody of Gabriel, the trial judge erred in holding them to answer on those charges.³ Moreover, and more apposite to the instant case, the appellate court held that because the social workers were not public "officers," they could be charged with the felony of falsifying public records.⁴

Turning to the bill before the Committee, existing law provides that every officer that has custody of any public record and steals, destroys, defaces, alters or falsifies that record is guilty of a felony.⁵ This was the charge used by prosecutors against the social workers in Gabriel's case. A separate but related provision of existing law, and the one modified by this bill, provides that every person "not an officer" who is guilty of the same conduct is subject to misdemeanor penalties.⁶ The court in *Bom* (the social workers' appeal), attempting to parse whether social

¹ "Charges upheld against L.A. social workers in death of 8-year-old Gabriel Fernandez." *Los Angeles Times*. 13 September 2018. <https://www.latimes.com/local/lanow/la-me-ln-gabriel-fernandez-social-workers-abuse-20180913-story.html>

² *Ibid.*

³ *Bom v. Superior Court* (2020) 44 Cal.App 5th 1, 4-5.

⁴ *Id.* at p. 5.

⁵ Gov. Code, § 6200.

⁶ Gov. Code, § 6201.

workers were indeed “officers” for the purposes of the aforementioned felony, cited that “courts have construed the term to mean one who holds a position ‘created by the Constitution or authorized by some statute,’ and who is ‘clothed with a part of the sovereignty of the state to be exercised in the interest of the public.’”⁷ The court also adduced a century-old case decided by the California Supreme Court, explaining:

Where the [L]egislature creates the position, prescribes the duties, and fixes the compensation, and these duties pertain to the public and are continuing and permanent, not occasional or temporary, such position or employment is an office and he who occupies it is an officer. In such a case, there is an unmistakable declaration by the [L]egislature that some portion, great or small, of the sovereign functions of government are to be exercised for the benefit of the public, and the [L]egislature has decided for itself that the employment is of sufficient dignity and importance to be deemed to be an office.⁸

Concluding that the social workers in Gabriel’s case did not meet these standards of what constitutes an “officer,” the court ultimately held that the social workers were not in fact “officers” for the purposes of the felony falsification of public records statute, and remanded the case to the trial court, where the charge was eventually thrown out.⁹ This bill effectively codifies the holding in *Bom* with regard to the falsification charges by explicitly stating that the misdemeanor crime of falsifying a public record applies to a social worker employed by a county child welfare department.

3. Double Referral

This bill will be heard in Human Services Committee on June 29, one day before it is scheduled to be heard in this Committee, and well after this analysis was finalized. For discussion of changes made by the bill regarding social worker obligations to secure medical care for a child, see the analysis prepared by the Human Services Committee.

4. Argument in Support

According to the Los Angeles District Attorney’s Office:

AB 2304 clarifies that, in situations where a child taken into temporary custody needs emergency care, the social worker shall secure the needed care for the child, rather than being simply authorized to secure it; and also clarifies that county social workers who are guilty of specified crimes related to stealing, falsifying, altering or destroying public records or documents are punishable by felony imprisonment, or in a county jail or by both a fine and imprisonment.

Existing law merely authorizes but does not require a social worker secure medical care for a child when it appears that the child requires immediate emergency medical, surgical, or other remedial care in an emergency situation.

⁷ *Bom, supra*, at 23, quoting *Bennett v. Superior Court* (1955) 131 Cal.App.2d 841, 844.

⁸ *Id.*, quoting *Patton v. Board of Health* (1899) 127 Cal. 388, 398.

⁹ “Charges dismissed against social workers linked to Gabriel Fernandez’s killing.” *Los Angeles Times*. 15 July 2020. <https://www.latimes.com/california/story/2020-07-15/charges-against-the-social-workers-linked-to-gabriel-fernandez-killing-will-be-dropped>

This bill would mandate that the social worker secure medical care for the child from a licensed physician and surgeon or, if the child needs dental care in an emergency situation, by a licensed dentist, without a court order.

AB 2304 would also include social workers employed by a county child welfare department within the meaning of a person covered under Government Code Section 6201 that shall be punished by a wobbler penalty for stealing, removing, secreting, destroying, mutilating, defacing, altering or falsifying any public records or documents.

This bill has been introduced in honor of Gabriel Fernandez, an 8-year-old boy from Palmdale, California who tragically died in May of 2013 after he was brutally abused and tortured by his mother and her boyfriend. The death of Gabriel Fernandez served as a wakeup call to focus our collective conscious on the systemic failure to protect innocent children. It revealed that there are many cracks within the child welfare system that place vulnerable children at risk.

Far too often in cases involving the unnecessary and senseless death of a child in the child welfare system we hear statements that only if the child was seen by just one medical professional, this tragedy could have been avoided. AB 2304 helps to ensure this statement isn't said about another child by requiring social workers to have children seen by a medical professional in emergency situations.

5. Argument in Opposition

According to Los Angeles Dependency Lawyers:

Firstly, the bill does not accomplish what it purports to with regards to increasing accountability for social workers who falsify records. The current state of the law is that social workers are non-officers under Government Code Sec. 6201, meaning that they are eligible for lighter penalties than officers when they falsify records. The proposed bill does not change that; in fact, it seeks to enshrine it by specifically enumerating social workers as non-officers. A bill truly seeking to increase accountability would instead advocate for social workers to be considered officers pursuant to Government Code Sec. 6200, which imposes harsher penalties for falsifying records. Similarly, the changes proposed to Welfare and Institutions Code (“WIC”) Sec. 369 fail to make meaningful change. The current law is that social workers may obtain emergency care without court order for children taken into temporary custody, children pending adjudication of a filed petition without a parent willing to authorize care, or suitably placed dependent children without a parent willing to authorize care. This proposed change would merely require that emergency care be provided. However, there are no penalties associated with a social worker’s failure to procure care, making this amendment toothless. Therefore, we oppose AB 2304.

The Author states that the impetus behind this bill is the tragic case of Gabriel Fernandez. Notably, the proposed changes would have had no effect for Gabriel, either in securing care for him before his death, or imposing criminal liability after it. This lack of impact highlights the inadequacy of AB 2304. The Author states that “Over the years, multiple people have made the statement that if

[Gabriel] was just seen by one medical professional, all of this could have been prevented.” But Gabriel was not subject to WIC Sec. 369, because he was not taken into DCFS custody, did not have a filed petition, and was not a dependent of the juvenile court. Therefore, the change to WIC Sec. 369 would not have affected him, and it does nothing to prevent social worker misconduct from happening again. Further, the social workers in Gabriel Fernandez’s case escaped criminal liability because they were only charged pursuant to Government Code Sec. 6200, and a Court of Appeal found that they did not qualify as officers in *Bom v. Superior Court* (2020) 44 Cal.App.5th 1. They presumably could have been found criminally liable under Government Code Sec. 6201 as non-officers, but the State failed to bring these charges against them; therefore, an amendment to Government Code Sec. 6201 would not have imposed liability on these social workers.

As Judge Chaney said in her dissent in *Bom v. Superior Court*, “Petitioners’ actions here prevented the system from working in whatever way it might have had they done their jobs honestly, and offers no incentive for either DCFS or individual social workers to work to reform and repair the parts of the system that may fail the children it is intended to protect. We have, in effect, encouraged DCFS and its social workers to cover their tracks if they stumble on the cracks in the system.” This bill does nothing to pave over those cracks, nor to disincentive social workers from covering their tracks if they find them. Gabriel Fernandez was failed by the Department of Children and Family Services as a whole, and by the social workers as individuals. His name should be a rallying cry to increase accountability for DCFS and its employees, and LADL would enthusiastically support such a bill. However, this bill is ineffectual at best, and at worst provides safe harbor for social workers when they falsify reports.

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