

Date of Hearing: May 6, 2026

ASSEMBLY COMMITTEE ON APPROPRIATIONS

Buffy Wicks, Chair

AB 2631 (Bauer-Kahan) – As Amended April 6, 2026

Policy Committee: Public Safety

Vote: 7 - 1

Urgency: No

State Mandated Local Program: No

Reimbursable: No

SUMMARY:

This bill bars California electronic communications corporations from complying with federal and out-of-state legal process seeking records related to First Amendment-protected activity, by expanding the existing definition of “prohibited violation” — currently limited to lawful abortion care — to also cover First Amendment-protected activity, and by extending the existing compliance prohibition to federal legal process in addition to out-of-state legal process.

Specifically, this bill:

- 1) Expands the definition of “prohibited violation” under the wiretap statute to include exercising any rights protected by the First Amendment, which has the effect of prohibiting California state courts from issuing wiretap orders in investigations of First Amendment-protected activity.
- 2) Extends the prohibition on complying with certain orders to California corporations providing electronic communications or remote computing services to warrants issued by federal courts, in addition to out-of-state courts, when the warrant seeks records related to a prohibited violation.

FISCAL EFFECT:

- 1) Minor, absorbable costs to the Department of Justice (DOJ) and local prosecutors (General Fund, local funds) to apply the expanded “prohibited violation” definition in wiretap order applications. Because wiretap orders under existing law are limited to enumerated serious felonies (drug trafficking, murder, gang crimes, human trafficking, and child sexual exploitation), the DOJ expects the incremental workload from adding First Amendment-protected activity to be minimal.
- 2) Cost pressures (Trial Court Trust Fund, General Fund) of an unknown but potentially significant amount to the courts to adjudicate matters under the bill. Most communications evidence sought through warrants, subpoenas, or other legal process implicates First Amendment-protected activity at some level, which increases the universe of federal and out-of-state investigations potentially affected by the bill and the corresponding court workload. One hour of court time has an estimated cost of approximately \$1,000; even a small number of contested matters could generate court costs exceeding the \$150,000 suspense threshold.

Although courts are not funded on the basis of workload, increased pressure on the Trial Court Trust Fund may create a need for increased funding for courts from the General Fund.

The state budget provides annual General Fund backfills to the Trial Court Trust Fund to offset revenue reductions, totaling approximately \$117.3 million in 2025-26. 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.** According to the author, federal agencies have issued administrative subpoenas to major technology companies seeking identifying information about users who track or criticize government immigration enforcement activity, and individuals have reportedly faced consequences for anonymous online speech. The author argues that the bill protects First Amendment rights by preventing California corporations from being compelled to produce records related to First Amendment-protected activities.
- 2) **Background.** California's wiretap statute (Penal Code section 629.50 *et seq.*) authorizes the Attorney General or a district attorney to apply to a superior court for an order authorizing interception of wire, electronic pager, or electronic cellular communications, subject to strict procedural safeguards. Wiretaps may only be sought for enumerated serious felonies, including drug trafficking, murder, gang crimes, possession or use of a weapon of mass destruction, human trafficking, and sexual exploitation of minors. AB 1242 (Bauer-Kahan), Chapter 627, Statutes of 2022, established the concept of a "prohibited violation" in the wiretap statute, defined as any violation of law related to providing, facilitating, or obtaining an abortion lawful under California law. Existing law prohibits the issuance of wiretap orders related to prohibited violations and prohibits California electronic communications corporations from complying with out-of-state warrants, court orders, subpoenas, or wiretap orders related to prohibited violations. This bill expands the existing framework in two ways: it extends the corporate non-compliance directive to federal warrants, court orders, and subpoenas, and it expands the definition of "prohibited violation" to include violations related to the exercise of First Amendment rights.

The policy committee analysis notes that federal administrative subpoenas have been sent to technology companies seeking communications content and subscriber information, including information about accounts tracking or criticizing immigration enforcement. Because administrative subpoenas do not require court review, companies have had limited statutory guidance on how to respond. The expanded definition of "prohibited violation" provides a statutory basis for California corporations to decline to produce records to the extent the underlying inquiry concerns the exercise of First Amendment rights as defined in the bill.

The federal-process extension is a departure from the existing AB 1242 framework, which addresses out-of-state legal process. Federal warrants, court orders, and subpoenas are governed by federal law, and a state directive to California corporations to decline to comply with federal legal process raises questions under the Supremacy Clause that the existing out-of-state framework does not present. To the extent the bill is challenged in court, any defense costs would be borne by the Department of Justice.