

## CONCURRENCE IN SENATE AMENDMENTS

AB 2631 (Bauer-Kahan)

As Amended August 20, 2026

Majority vote

**SUMMARY**

Adds exercising any rights protected by the First Amendment of the United States Constitution to the prohibited violations for which an order for a warrant for the interception of a wire may not be issued.

**Senate Amendments**

Provides that the prohibition on a magistrate entering an ex parte order authorizing interception of wire or electronic communications for purpose of investigating or recovering evidence of a prohibited violation, as specified, does not prevent the interception of wire or electronic communications related to a specified offense solely because the communications may also involve expression protected by the First Amendment to the United States Constitution.

**COMMENTS**

*As Passed by the Assembly, this bill:* Added exercising any rights protected by the First Amendment of the United States Constitution to the prohibited violations for which an order for a warrant for the interception of a wire may not be issued.

**Major Provisions**

- 1) Expanded the definition of a prohibited violation to include exercising any rights protected by the First Amendment of the United States Constitution.
- 2) Clarified that a California Corporation that provides electronic communication services or remote computing services shall not produce records when served with a warrant seeking a prohibited violation by a federal court as well as a state court.

**According to the Author**

"The First Amendment's protection of free speech and anonymous political expression is not merely an abstract legal principle, it is the foundation of a functioning democracy. The Department of Homeland Security has issued hundreds of administrative subpoenas to major tech companies, including Google, Meta, Reddit, and Discord demanding names, email addresses, phone numbers, and other identifying data tied to social media accounts that track or criticize ICE. The ACLU has argued that the ability to criticize the government anonymously is "baked into" First Amendment rights, and yet people have reportedly faced real-world consequences, including having immigration agents appear at their homes, simply for speaking out online. When users believe their identity may be exposed for criticizing government agencies, they may self-censor, and this chilling effect does not require arrests or prosecutions to take hold. If the government can unmask and retaliate against those who document or criticize its actions, it effectively silences the public watchdogs that democracy depends on. AB 2631 protects First Amendment rights by preventing California corporations from being compelled to hand over records related to first amendment protected activities."

**Arguments in Support**

According to *Oakland Privacy*, "Assembly Bill 2631 is an expansion of existing California shield laws which currently protect providers and patients of reproductive and gender-affirming medical care from out of state warrants designed to seek information and/or enforce local laws that criminalize behavior that is legal and protected under California state law. AB 2631 adds to that list First Amendment-protected activities related to freedom of assembly and freedom of speech that protect peaceful dissent and the seeking of redress from public officials for harms and grievances by the people of the state. "While nominally First Amendment activities are protected by the federal constitution for all Americans, and no state should be attempting to criminalize fundamental rights protected by the federal constitution, in practice we have seen some erosion in those rights around certain controversial issues, in particular immigration. Such efforts have been incited by disturbing language from the executive branch seeking to redefine protected activities, like protesting the way the federal government is carrying out immigration enforcement, into "terrorism" or other dangerous and illegal activities. "In particular, executive order NSPM-7 equates a litany of beliefs with political violence and domestic terrorism including: "Anti-Americanism, anti-capitalism, and anti-Christianity," "support for the overthrow of" the federal government, "extremism on migration, race, and gender," and opposition to "traditional American views on family, religion, and morality.""This profound muddying of the waters of basic Constitutional freedoms that Americans have taken for granted for centuries, as well as the implicit encouragement in the memo to go after any civil society institutions perceived to embrace any of these beliefs creates a dangerous situation for public dissent and First-Amendment protected acts of protest. It is basically a red flag for more conservative states to act to enforce limitations on the First Amendment. "Assembly Bill 2631 seeks to ensure that California will not be complicit with any attempts to criminalize First Amendment protections for freedom of speech and assembly. "It is sad that this expansion is needed, but it is clear that it is."

**Arguments in Opposition**

None submitted.

**FISCAL COMMENTS**

According to the Senate Appropriations Committee, "Minor, absorbable costs to the Department of Justice to apply the expanded "prohibited violation" definition in wiretap order applications. Cases are expected to be few. (General Fund)

"Minor to modest cost pressure to the courts to adjudicate matters under the bill. More likely than not, communications evidence sought through warrants, subpoenas or other legal processes involve First Amendment protected activity, thereby increasing the universe of federal investigations potentially affected by the bill and generating court workload. An eight-hour court day costs approximately \$10,500 based on the hourly rate of court personnel including at minimum the judge, clerk, bailiff, court reporter, jury administrator, administrative staff, and jury per-diems. While the courts are not funded on a workload basis, an increase in workload could result in delayed court services and would put pressure on the General Fund to fund additional staff and resources. The FY 2026-27 Budget appropriated \$70 million General Fund for this purpose. (Trial Court Trust Fund, General Fund)"

**VOTES:****ASM PUBLIC SAFETY: 7-1-1**

**YES:** Schultz, Mark González, Haney, Harabedian, Nguyen, Ramos, Sharp-Collins

**NO:** Lackey

**ABS, ABST OR NV:** Alanis

**ASM APPROPRIATIONS: 11-4-0**

**YES:** Wicks, Aguiar-Curry, Calderon, Caloza, Fong, Mark González, Krell, Pacheco, Pellerin, Sharp-Collins, Solache

**NO:** Hoover, Dixon, Ta, Tangipa

**ASSEMBLY FLOOR: 59-17-4**

**YES:** Addis, Aguiar-Curry, Ahrens, Alvarez, Arambula, Ávila Farías, Bains, Bauer-Kahan, Bennett, Berman, Boerner, Bonta, Bryan, Calderon, Caloza, Carrillo, Connolly, Elhawary, Fong, Gabriel, Garcia, Gipson, Mark González, Haney, Harabedian, Hart, Irwin, Jackson, Kalra, Krell, Lee, Lowenthal, McKinnor, Nguyen, Ortega, Pacheco, Papan, Patel, Pellerin, Petrie-Norris, Quirk-Silva, Ramos, Ransom, Michelle Rodriguez, Rogers, Blanca Rubio, Schiavo, Schultz, Sharp-Collins, Solache, Soria, Stefani, Valencia, Wallis, Ward, Wicks, Wilson, Zbur, Rivas

**NO:** Castillo, Chen, DeMaio, Dixon, Ellis, Flora, Gallagher, Jeff Gonzalez, Hadwick, Hoover, Johnson, Lackey, Macedo, Patterson, Sanchez, Ta, Tangipa

**ABS, ABST OR NV:** Alanis, Davies, Muratsuchi, Celeste Rodriguez

**SENATE FLOOR: 30-10-0**

**YES:** Allen, Archuleta, Arreguín, Ashby, Becker, Blakespear, Cabaldon, Caballero, Cervantes, Cortese, Durazo, Gonzalez, Grayson, Hurtado, Laird, Limón, McGuire, McNerney, Menjivar, Padilla, Pérez, Reyes, Richardson, Rubio, Smallwood-Cuevas, Stern, Umberg, Wahab, Weber Pierson, Wiener

**NO:** Alvarado-Gil, Choi, Dahle, Grove, Jones, Niello, Ochoa Bogh, Seyarto, Strickland, Valladares

**UPDATED**

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