

ASSEMBLY THIRD READING

AB 292 (Patterson and Alanis)

As Amended January 14, 2026

Majority vote

SUMMARY

Removes misdemeanor sentencing discretion for defendants who commit domestic violence within seven years of a prior felony domestic violence conviction, requiring the offense be charged and sentenced as a felony with a two-, four-, or five-year state prison term, and increases the mandatory minimum county jail term on probation from 15 days to 60 days for those defendants.

Major Provisions

- 1) Increases the punishment for domestic violence within seven years of a prior felony domestic violence conviction from two, three or four years in state prison to two, four, or five years in state prison.
- 2) Increases the mandatory minimum jail sentence for a defendant granted probation following a conviction of domestic violence, where the defendant had a prior felony domestic violence conviction within seven years of the current offense, from 15 days to 60 days.

COMMENTS

Under existing law, domestic violence under Penal Code section 273.5 is a "wobbler," punishable either as a misdemeanor (up to one year in county jail) or as a felony (two, three, or four years in state prison). A second offense within seven years is subject to enhanced penalties, including a sentence of up to five years in state prison. Additional enhancements may apply where the defendant inflicts great bodily injury or has prior strike convictions, which can substantially increase or double the term of imprisonment. Domestic violence conduct is also frequently charged alongside—or as—other serious or violent felonies depending on the facts.

Nevertheless, under existing law, section 273.5 itself preserves prosecutorial and judicial discretion even for repeat offenses. This bill narrows that discretion for repeat offenders by eliminating wobbler treatment for defendants who commit domestic violence within seven years of a prior felony domestic violence conviction. For those defendants, the offense must be charged and sentenced as a felony with a two-, four-, or five-year state prison term, and if probation is granted, the mandatory minimum county jail term increases from 15 days to 60 days.

According to the Author

"By definition, domestic violence is violent; however, under current California law, in most instances, felony domestic abuse convictions are considered "nonviolent offenders and are eligible for early release under Prop. 57 after serving only 50% of their sentence. Additionally, nonviolent felonies are not considered strikes under California's three strikes law, which limits prosecutors from seeking longer sentences for repeat offenders. This reality has resulted in the perpetuation of domestic abuse, and in some cases the loss of life. According to research compiled by USA Today, the Associated Press, and Northwestern University, more than 68% of mass shooters have a documented history of domestic violence or have killed a family member. Whether you're a Republican, Independent, or Democrat, you can't argue with the data. Statistics

show that violent domestic abusers are the individuals most likely to commit mass shootings. If we hold them accountable, we will reduce mass shootings."

Arguments in Support

According to the *California State Sheriff's Association*, the bill's sponsor: "Within existing statutes, domestic violence is generally not considered a violent felony despite the inherently violent nature of the offense. The sole exception is if, in commission of an offense, great bodily injury is inflicted. The current statutory composition defies logic and ignores the seriousness and impact of domestic violence offenses.

"Domestic violence continues to create victims across our state. This crime has long-term effects on abused persons, their families, and their communities. It is time that the California criminal justice system re-examine and modify its response to this abhorrent behavior.

"By adding felony domestic violence to the state's list of violent felonies, domestic abusers can face increased penalties that appropriately reflect the severity of their crimes and lifelong harm they inflict upon their victims. As the Legislature continues to adjust the violent felony list, adding felony domestic violence is an obvious way to increase accountability and protect victims."

Arguments in Opposition

According to *Californians United for a Responsible Budget*, "We agree that the Legislature must enact new policies and programs to better prevent and respond to domestic violence (DV) and intimate partner violence (IPV). However, we strongly disagree with expanding failed carceral solutions that accomplish neither of these goals and would increase wasteful spending during a historic statewide budget crisis. Survivors of DV and IPV deserve healing and supportive services. Indeed, a wide body of research shows that women of color, particularly Black, Indigenous, and Latinx women, are disproportionately impacted by IPV and their experiences of IPV are compounded by social determinants of health, including poverty, immigration status, access to healthcare, and other factors.

"AB 292 limits judicial discretion by eliminating the option of a wobbler (alternate felony/misdemeanor) when an individual's prior offense was a felony.

"The bill would eliminate courts' ability to treat corporal injury to a spouse as a misdemeanor or felony, instead mandating a felony sentence of two, four, or five years for individuals with a prior felony conviction (*refer to Pen. Code, Section 273.5 f(3)*). By mandating a prison term in every case and removing judges' authority to waive this requirement in the interest of justice, judges will be unable to consider mitigating factors to ensure appropriate sentencing outcomes. Current law preserves judicial discretion to ensure a sentence is proportional to the seriousness of the offense.

"AB 292 unnecessarily extends sentences by altering the sentencing structure for felony convictions from 2/3/4 years to 2/4/5 years. Additionally, it increases the minimum jail term for those granted probation from 15 to 60 days. This extended incarceration does not deter crime and ultimately becomes a costly burden on the state.

"Evidence suggests that an increased length of incarceration does not deter crime. As noted in the Assembly committee analysis, the National Institute of Justice (NIJ) has researched the effectiveness of increasing penalties to enhance public safety. Since 2016, NIJ findings indicate that harsher punishments do not significantly deter criminal behavior, may worsen recidivism, and can ultimately decrease public safety.

"Furthermore, extended incarceration is costly to taxpayers. During a time of severe budget gaps, corrections continue to account for a large share of our state budgets, even as we face healthcare and food aid cuts that will harm communities. The LAO identified that the cost of an additional year of incarceration is \$127,000, meaning that for every person sentenced under the proposed sentencing structure, the state faces compounding incarceration costs.

"AB 292 increases the fines under Pen Code § 273.5 from \$6,000 to \$10,000. Fines are ineffective, costly, and will disproportionately harm low-income communities.

"Low-income communities of color are disproportionately affected by criminal charges and incarceration rates in California. By increasing fines to \$10,000, AB 292 will place an additional financial burden on these communities. Black and brown residents are significantly less likely to afford these increased fines. Consequently, AB 292 will primarily impact those who cannot pay, trapping low-income families in a cycle of poverty without providing any benefits to public safety. Furthermore, our 2015 report *Who Pays, The True Cost of Incarceration on Families* details how incarceration destabilizes entire families and communities. Many people who return home from incarceration face extreme barriers to finding jobs and housing and settling back into their community. Family members of incarcerated people also struggle with overwhelming debt from court costs, visitation, and diminished family revenue. The longer the sentence, the more severe these problems.

"Lastly, counties net little to no revenue from fines. Because of the high costs and low returns of collections, most of the revenue pays for administrative costs and collection activities. These additional costs are insurmountable for some and have no impact on protecting survivors.

"Investing in punitive measures, despite existing penalties, hinders meaningful solutions for domestic violence survivors.

"AB 292 is based on the premise that we must wait for someone to be convicted of DV to prevent violence. AB 292 will not prevent future cases of DV and IPV, given the mounting research and federal guidelines rejecting arguments that lengthy prison terms carry a deterrent effect. Longer prison terms are both costly and ineffective at reducing future harmful behavior.

"Indeed, AB 292 will make things worse by fueling the "victim-to-prison pipeline" and wasting limited state resources better spent on direct services for survivors, which effectively work to improve the health and safety of survivors. Far too often, officers arrest survivors along with their abusers due to mandatory arrest laws. Even if they aren't charged or convicted, an arrest can be traumatic and make survivors less likely to seek help in the future. Mandatory arrest laws have ensnared far too many women in the criminal process, and data suggest that most of the women arrested for DV are victims who were acting in self-defense, retaliation, or response to cues indicative that violence was imminent."

FISCAL COMMENTS

Incarceration costs (local funds, General Fund) to the counties and the California Department of Corrections and Rehabilitation. Actual incarceration costs will depend on the number of convictions, the length of each sentence, and whether each sentence must be served in county jail or state prison. CDCR data indicates that in 2024 there were 1,991 new felony admissions where domestic violence under this section was the principal or subordinate offense. There were 438 felony admissions for repeat offenses (including where the first offense was for certain specified assault or battery offenses). Even if only a small fraction involved defendants with qualifying prior felony domestic violence convictions, the resulting increase in state prison commitments and sentence lengths would translate into meaningful and ongoing incarceration costs.

The average annual cost to incarcerate one person in county jail is approximately \$29,000, though costs are higher in larger counties. The Legislative Analyst's Office estimates the average annual cost to incarcerate one person in state prison is \$128,000. CDCR estimates the annual cost is \$135,921.

County incarceration costs are not subject to reimbursement by the state. However, overcrowding in county jails creates cost pressure on the General Fund because the state has historically granted new funding to counties to offset overcrowding resulting from public safety realignment.

VOTES**ASM PUBLIC SAFETY: 8-0-1**

YES: Schultz, Alanis, Mark González, Harabedian, Lackey, Nguyen, Ramos, Sharp-Collins

ABS, ABST OR NV: Haney

ASM APPROPRIATIONS: 15-0-0

YES: Wicks, Hoover, Stefani, Calderon, Caloza, Dixon, Fong, Mark González, Krell, Bauer-Kahan, Pacheco, Pellerin, Solache, Ta, Tangipa

UPDATED

VERSION: January 14, 2026

CONSULTANT: Andrew Ironside / PUB. S. / (916) 319-3744

FN: 0002236