

CONCURRENCE IN SENATE AMENDMENTS

AB 321 (Schultz)

As Amended August 19, 2025

Majority vote

SUMMARY

Authorizes a court to reduce a felony to a misdemeanor where the charged offense is an alternate felony-misdemeanor when a court determines, prior to trial, either on its own motion or a motion by a party.

Senate Amendments

- 1) Removes the ability of a court to grant a motion to reduce an alternate felony-misdemeanor to a misdemeanor at any time and, instead, limits the court's ability to any time prior to trial.
- 2) States, following the denial of a motion to reduce a felony to a misdemeanor, a subsequent motion may only be made on a showing of changed circumstances, including but not limited to, newly available facts relevant to the charge or defendant's personal circumstances, or changes in the applicable law.

COMMENTS**According to the Author**

"AB 321 empowers judges in criminal cases to review a prosecutor's charging decision at all stages of a case. Under current law, judges must make a final decision on whether a 'wobbler case' will move forward as a misdemeanor or felony at or before the preliminary hearing or after a guilty plea at the time of sentencing. At the time of the preliminary hearing, because there is no discovery requirement, the court often has very little information about the accused person and their alleged conduct to determine whether a misdemeanor or felony charge is appropriate.

"This bill is a streamlined amendment that permits judges to decide whether a wobbler case will move forward as a misdemeanor or felony when they have sufficient evidence to make that decision. This ensures that individuals face consequences proportionate to their actions and that public resources spent on trials are appropriate to the severity and complexity of each case. This bill would enhance court efficiency, save public funds, and lead to a more equitable criminal justice system by guarding against overcharging, mischarging, and severe penalties, particularly for vulnerable populations."

Arguments in Support

According to the *San Francisco Public Defender*, "The Better Informed Decisions Act ("The BID Act"), which ensures that judges in the state's criminal courts have more of an opportunity to review relevant evidence necessary during the course of a case so that they can make better informed decisions on whether a case will move forward as a misdemeanor or a felony.

The offense for which an accused individual faces trial, also known as the criminal charge against them, should match the accused individual's alleged conduct. This ensures that the individual faces consequences that are proportionate to their actions. However, as explained

below, current law places strict restrictions on when judges can review charges to make sure they are fair.

Currently, for offenses called 'wobblers'—which can be classified as misdemeanors or felonies—judges must make a final decision on whether a case will move forward as a misdemeanor or felony at or before the preliminary hearing (the very beginning of a case) or after a guilty plea (at the end of a case). At the preliminary hearing stage of a case, very little information has been gathered about the accused person and their alleged conduct. The BID Act is a simple amendment that removes the time restriction that only permits judges to classify wobblers as felonies or misdemeanors at the very beginning of the case.

Under the BID Act, judges can make this decision when they have gathered sufficient information about the accused person and their conduct. The BID Act will improve court efficiency and save public funds because it will ensure that the amount of public resources spent is proportionate to the severity and complexity of each case.

Lastly, allowing judges to review charges to determine if they are supported by the evidence at a later stage in the criminal case can guard against overcharging and mischarging and thereby reduce unjust outcomes."

Arguments in Opposition

According to the California District Attorneys Association, "The August 19, 2025 amendments to AB 321 do not address CDAA's concerns. As amended, the bill would still allow a motion to be brought at any point in time during the lifespan of the felony criminal proceeding. However, once denied, a motion could then only be brought again upon a showing of changed circumstances. The new amendments clarify what some of the changed circumstances might be. This clarification does not address CDAA's concerns with forum shopping or with fact that this proposal will permit judges to make important dispositional decisions without a full hearing on the facts and circumstances of the case. As such, CDAA remains opposed to AB 321.

FISCAL COMMENTS

Unknown. This bill is keyed non-fiscal by the Legislative Counsel.

VOTES:

ASM PUBLIC SAFETY: 9-0-0

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

ASSEMBLY FLOOR: 52-6-22

YES: Addis, Aguiar-Curry, Ahrens, Alanis, Alvarez, Arambula, Ávila Farías, Bauer-Kahan, Bennett, Berman, Boerner, Bonta, Bryan, Calderon, Caloza, Carrillo, Connolly, Davies, Elhawary, Flora, Fong, Gabriel, Gipson, Mark González, Haney, Harabedian, Jackson, Kalra, Krell, Lowenthal, McKinnor, Muratsuchi, Nguyen, Pacheco, Papan, Patel, Pellerin, Quirk-Silva, Ransom, Celeste Rodriguez, Michelle Rodriguez, Rogers, Blanca Rubio, Schiavo, Schultz, Sharp-Collins, Solache, Stefani, Wicks, Wilson, Zbur, Rivas

NO: Castillo, DeMaio, Macedo, Sanchez, Tangillo, Wallis

ABS, ABST OR NV: Bains, Chen, Dixon, Ellis, Essayli, Gallagher, Garcia, Jeff Gonzalez, Hadwick, Hart, Hoover, Irwin, Lackey, Lee, Ortega, Patterson, Petrie-Norris, Ramos, Soria, Ta, Valencia, Ward

UPDATED

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