
SENATE COMMITTEE ON APPROPRIATIONS

Senator Anna Caballero, Chair
2025 - 2026 Regular Session

AB 528 (Alanis) - Criminal procedure: child pornography

Version: July 3, 2025

Urgency: No

Hearing Date: August 18, 2025

Policy Vote: PUB. S. 6 - 0

Mandate: Yes

Consultant: Liah Burnley

Bill Summary: AB 528 requires, in any criminal proceeding, any material that constitutes child pornography, and any hardware, media, or other property containing, storing, or housing that material, to remain in the care, custody, and control of either a law enforcement agency, the prosecution, or the court.

Fiscal Impact:

- The Judicial Council has significant operational concerns with AB 528. While the courts are listed as one of three options, given current case law and a party's potential inability or inadvisability to view the evidence at either the prosecution's office or a law enforcement facility, a judge may not be able to deny a request for the court to be a neutral location for the purposes of viewing the materials. The courts, however, are not currently equipped to take on the responsibility of storing the evidence, monitoring for compliance with AB 528's privacy requirements, and the physical space and technology to conduct a private viewing of this evidence.

To be equipped to handle AB 528, the council estimates the bill will require new evidence viewing rooms to be constructed in a large majority of courthouses where criminal calendars are heard and will require ongoing unknown, likely significant staff resources to ensure proper handling of such sensitive material. Based on facility estimates, the bill will likely cost approximately \$270.6 million one-time to construct new rooms or retrofit existing spaces within courthouses with criminal calendars. The Judicial Council requires funding to conduct an official survey of all impacted courthouses to determine how many rooms may be needed, ideal location, construction needs and cost, as well as a construction timeline. The bill currently does not include a delayed implementation and if the courts are the selected location for viewing this evidence, the court may not be able to comply. The Judicial Council notes that if the bill were to be amended to remove the court as an entity that may be required to hold and provide this evidence for viewing, then there would be no operational or fiscal concerns with the bill.

- Unknown, potentially significant reimbursable costs (local funds, Trial Court Trust Fund, General Fund) to county prosecutors and local law enforcement agencies to store evidence and provide reasonable access to the evidence for authorized representatives of victims and to make the evidence reasonably available to the defense. Actual ongoing costs will depend on the number of cases and the additional workload associated with providing access to evidence. Some offices may incur one-time costs to set up physical locations where evidence may be accessed. The total incidence of criminal charges involving child pornography evidence each

year in California is unknown, but data from the California Department of Corrections and Rehabilitation (CDCR) shows 129 new felony admissions in 2024 for which possession of such materials was the primary offense. Assuming there are several hundred cases prosecuted in the state each year, aggregate workload costs from complying with this bill's requirements may be significant. General Fund costs will depend on whether these duties constitute a reimbursable state mandate, as determined by the Commission on State Mandates.

- Unknown, potentially significant costs to county jails and CDCR (local funds, general funds) to transport defendants to local law enforcement agencies, courthouses, and prosecutors' offices to view evidence.

Background: Under existing law, a defendant charged with a crime involving child pornography may not have copies of the evidence from the case against them. The defendant's attorney is permitted to have copies of the evidence and may share copies with others working on behalf of the defense, such as expert witnesses, but may not share them with the defendant. Only upon a showing of good cause, the court may authorize the defendant's attorney to provide copies of child pornography evidence to the defendant.

Proposed Law: This bill eliminates the court's ability to provide a defendant with copies of child pornography evidence upon a showing of good cause, and instead:

- Requires in any criminal proceeding, any material that constitutes child pornography, and any hardware, media, or other property containing, storing, or housing that material, to remain in the care, custody, and control of either a law enforcement agency, the prosecution, or the court.
- Requires the court to deny any request by the defendant, their attorney, anybody employed by the defendant, or anybody else to copy, photograph, duplicate, or otherwise reproduce any material that constitutes child pornography so long as the prosecution makes the material, and any hardware, media, or other property containing, storing, or housing that material, reasonably available to the defendant.
- Provides that any material or any hardware, media, or other property containing, storing, or housing that material, shall be deemed to be reasonably available to the defendant if the prosecution provides ample opportunity for the inspection, viewing, and examination of that material at the prosecution's office, a law enforcement agency facility, or court facility by the defendant, the defendant's attorney, and any individual the defendant may seek to qualify to furnish expert testimony at trial.
- Provides that the victim and the victim's attorney or any individual the victim may seek to qualify to furnish expert testimony shall have reasonable access to any material that constitutes child pornography depicting the victim, for inspection, viewing, and examination at the prosecution's office, a law enforcement agency facility, or court facility, but under no circumstances may material that constitutes child pornography be copied, photographed, duplicated, or otherwise reproduced. This property or material may be redacted to protect the privacy of third parties.

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