
COMMITTEE ON PUBLIC SAFETY

Senator Jesse Arreguín, Chair
2025 - 2026 Regular

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Author: Jones
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Consultant: SJ

Subject: *False or forged instruments*

HISTORY

Source: San Diego County District Attorney's Office

Prior Legislation: AB 1698 (Wagner), Ch. 455, Stats. of 2014

Support: California District Attorneys Association; Fidelity National Title Company;
Riverside County District Attorney; San Bernardino County District Attorney's
Office

Opposition: California Public Defenders Association

PURPOSE

The purpose of this bill is to expedite the process for a court to declare a false or forged instrument void when a defendant has been charged with knowingly filing, registering, or recording a false or forged instrument.

Existing law provides that every person who knowingly procures or offers any false or forged instrument to be filed, registered, or recorded in any public office within this state, which instrument, if genuine, might be filed, registered, or recorded under any law of this state or of the United States, is guilty of a felony. (Pen. Code, § 115, subd. (a).)

Existing law provides that each instrument which is procured or offered to be filed, registered, or recorded constitutes a separate violation. (Pen. Code, § 115, subd. (b).)

Existing law generally prohibits probation from being granted probation or suspending the execution or imposition of sentence, for any of the following persons:

- Any person with a prior conviction for knowingly filing a false or forged instrument who is again convicted of a violation in a separate proceeding.
- Any person who is convicted of more than one violation of knowingly filing a false or forged instrument in a single proceeding, with intent to defraud another, and where the violations resulted in a cumulative financial loss exceeding \$100,000.
(Pen. Code, § 115, subd. (c).)

Existing law provides that each act of procurement or of offering a false or forged instrument to be filed, registered, or recorded is considered a separately punishable offense. (Pen. Code, § 115, subd. (d).)

Existing law requires the court, after a person is convicted of a violation, or a plea is entered whereby a charge alleging a violation is dismissed and waiver is obtained pursuant to *People v. Harvey* (1979) 25 Cal.3d 754, upon written motion of the prosecuting agency, to issue a written order, after a hearing, that the false or forged instrument be adjudged void ab initio if the court determines that an order is appropriate under applicable law. Requires the order to state whether the instrument is false or forged, or both, and describe the nature of the falsity or forgery. (Pen. Code, § 115, subd. (e)(1).)

Existing law provides that if the order pertains to a false or forged instrument that has been recorded with a county recorder, an order must be recorded in the county where the affected real property is located. Requires the order to also reference the county recorder's document recording number of any notice of pendency of action recorded. (Pen. Code, § 115, subd. (e)(2)(A).)

Existing law requires a prosecuting agency to use the following procedures in filing a motion to void the false or forged instrument:

- Within 10 calendar days of filing a criminal complaint or indictment alleging a violation, the prosecuting agency must provide written notice by certified mail to all parties who have an interest in the property affected by the false or forged instrument, or in the instrument itself.
 - If the instrument sought to be declared void involves real property, “interested parties” include, but are not limited to, all parties who have recorded with the county recorder in the county where the affected property is located any of the following: a deed, lien, mortgage, deed of trust, security interest, lease, or other instrument declaring an interest in, or requesting notice relating to, the property affected by the false or forged instrument as of the date of the filing of the criminal complaint or indictment.
- Within 10 calendar days of filing a criminal complaint or indictment alleging a violation, the prosecuting agency must record a notice of pendency of action in the county in which the affected real property is located.
- Within 10 calendar days of the case being adjudicated or dismissed without obtaining an order voiding the false or forged instrument, the prosecuting agency must record a withdrawal of the notice of pendency of action in the county where the affected real property is located.
- The written notice and notice of pendency of action must inform the interested parties that a criminal action has commenced that may result in adjudications against the false or forged instrument or the property affected by the false or forged instrument, and must notify the interested parties of their right to be heard if a motion is brought to void the false or forged instrument. Requires the notice to state the street address, if available, and the legal description of the affected real property.

- Failure of the prosecuting agency to provide written notice or record a pendency of action as required within 10 calendar days does not prevent the prosecuting agency from later making a motion, but the court must take the failure to provide notice or record a pendency of action as required as reason to provide any interested parties additional time to respond to the motion. Provides that failure of the prosecuting agency to notify interested parties or record a pendency of action as required within 10 calendar days creates a presumption that a finding that the interest of justice or need to protect the property rights of any person or party is necessary to protect the property rights of the interested party or parties.
- Any party not required to be noticed who nonetheless notifies the prosecuting agency in writing of the party's desire to be notified if a motion is brought to void the false or forged instrument must be treated as an interested party.
- The court must set a hearing for the motion brought by the prosecuting agency no earlier than 90 calendar days from the date the motion is made. Requires the prosecuting agency to provide a copy by certified mail of the written motion and a notice of hearing to all interested parties, and all other persons who obtain an interest in the property prior to recordation of notice of pendency of action no later than 90 days before the hearing date set by the court. Requires the notice to state the street address, if available, and the legal description of the affected real property.
- At a hearing on a motion brought by the prosecuting agency, the defendant, prosecuting agency, and interested parties, have a right to be heard and present information to the court.
- At a hearing on a motion to void the false or forged instrument brought by a prosecuting agency, if the court determines that the interests of justice or the need to protect the property rights of any person or party so requires, including, but not limited to, a finding that the matter may be more appropriately determined in a civil proceeding, the court may decline to make a determination.
- If, prior to the hearing on the motion, any person or party files a quiet title action that seeks a judicial determination of the validity of the same false or forged instrument that is the subject of the motion, or the status of an interested party as a bona fide purchaser of, or bona fide holder of an encumbrance on, the property affected by the false or forged instrument, the court may consider that as an additional but not dispositive factor in making its determination; provided, however, that a final judgment previously entered in that quiet title action is followed to the extent otherwise required by law.
(Pen. Code, § 115, subd. (f).)

Existing law defines “prosecuting agency” as a city attorney, a district attorney, the Attorney General, or other state or local agency actively prosecuting a case for knowingly filing a false or forged instrument. (Pen. Code, § 115, subd. (g).)

Existing law requires an order to void the false or forged instrument to be considered a judgment, and subject to appeal, as provided. (Pen. Code, § 115, subd. (h).)

Existing law permits a party to file a civil action, commonly known as a “quiet title action,” to establish title against adverse claims to real or personal property or any interest therein. (Code Civ. Proc., § 760.020, subd. (a).)

Existing law requires, if during the pendency of an action and prior to judgment, a doubt arises in the mind of the judge as to the mental competence of the defendant, the judge to state that doubt in the record and inquire of the attorney for the defendant whether, in the opinion of the attorney, the defendant is mentally competent. Requires the court, at the request of the defendant or defendant’s counsel or upon its own motion, to recess the proceedings for as long as may be reasonably necessary to permit counsel to confer with the defendant and to form an opinion as to the mental competence of the defendant at that point in time. (Pen. Code, § 1368, subd. (a).)

Existing law requires the court, if counsel informs the court that they believe the defendant is or may be mentally incompetent, to order that the question of the defendant’s mental competence is to be determined. Authorizes the court, if counsel informs the court that they believe the defendant is mentally competent, to order a determination by the court of the defendant’s mental competence. (Pen. Code, § 1368, subd. (b).)

Existing law requires all proceedings in the criminal prosecution to be suspended when an inquiry into the present mental competence of the defendant has been commenced by the court until the question of the present mental competence of the defendant has been determined, except as provided. (Pen. Code, § 1368, subd. (c).)

This bill provides that the hearing to void the false or forged document occurs after the defendant is charged with knowingly procuring or offering any false or forged instrument to be filed, registered, or recorded, rather than after the defendant is convicted.

This bill provides that instead of holding the hearing to void the false or forged instrument, a defendant charged with knowingly filing a false or forged instrument may stipulate to the voiding of the false or forged instrument. Requires the court, after the prosecution has established by clear and convincing evidence that there are no interested parties that would be adversely affected by voiding the instrument, to issue a written order that the false or forged instrument be adjudged void ab initio if the court determines that an order is appropriate under applicable law.

This bill requires the order to state whether the instrument is false or forged, or both false and forged, and describe the nature of the falsity or forgery. Requires a copy of the instrument to be attached to the order at the time it is issued by the court and a certified copy of the order to be filed, registered, or recorded at the appropriate public office by the prosecuting agency.

This bill shortens the timeframe for hearing the motion to void the false or forged instrument to no earlier than 30 days from the date the motion is made instead of no earlier than 90 days from the date the motion is made.

This bill authorizes the court, if a defendant enters competency proceedings, to conduct the hearing to void the false or forged instrument on a motion brought by a prosecuting agency at any time before or after the defendant is determined incompetent to stand trial. Authorizes the court to hear the motion without personal participation of the defendant.

This bill authorizes the court, if it determines by clear and convincing evidence that the instrument is false or forged, to issue a written order at a hearing on a motion brought by a prosecuting agency.

This bill authorizes the hearing on a motion to be brought by a prosecuting agency to be held concurrently with the preliminary examination of the defendant.

COMMENTS

1. Need For This Bill

According to the author:

Real estate fraud can leave victims with a cloud on their title for years while a criminal case works its way through the courts. Under current law, a judge cannot void a false deed until a defendant is convicted. Because these cases are often complex, courts face heavy caseloads, causing victims to wait years before their title is cleared. In some instances, such as when a court grants a defendant's diversion motion or a defendant is found incompetent pursuant to Penal Code Section 1368, a conviction may never occur. During this time, the victim may be unable to sell, refinance, or otherwise make use of their property. Without a conviction, the victim's only recourse is to file a lawsuit to determine rightful ownership of real property. This requires hiring a private attorney, which many victims simply cannot afford and are left without meaningful relief.

SB 1307 addresses this problem by allowing prosecutors to seek a court order to void a false or forged recorded real estate document once charges are filed, allowing the public record to be corrected earlier and reducing the time a fraudulent document remains recorded. At the same time, SB 1307 provides substantial due process rights to the defendant.

2. False or Forged Instruments

Penal Code section 115 makes it a felony to knowingly procure or offer any false or forged instrument to be filed, registered, or recorded in any public office within this state. The purpose of Section 115 is to preserve the integrity of public documents. (*People v. Denman* (2013) 218 Cal.App.4th 800, 808.) The statute differentiates between false and forged documents but clearly proscribes either kind of instrument. (*Generes v. Justice Court* (1980) 106 Cal.App.3d 678, 682.)

A forgery is a "writing which falsely purports to be the writing of another, . . ." made with the "intent to defraud." (*Wutzke v. Bill Reid Painting Service, Inc.* (1984) 151 Cal.App.3d 36, 41-42.) A false instrument is one that has "the effect of defrauding one who acts on the instrument as genuine." (*Generes, supra*, at p. 682.) In the context of a deed, the court explained the notion of a false deed:

Here the lack of an ownership interest in the land goes to the deception itself. If *Generes* did not own the interest she purported to convey, the instrument she filed was clearly false. Having no right to grant or convey an easement, her recording of a deed transferring an easement would establish a cloud on the title of those persons who lawfully owned interests in the land. A title searcher encountering

the spurious document who acted upon it as genuine would of course be materially deceived. (*Ibid.*)

Penal Code section 115 outlines a process for a false or forged instrument to be declared void after a person is convicted of knowingly filing, registering, or recording a false or forged instrument. Section 115 requires the prosecutor to file a motion within 10 calendar days of filing a criminal complaint or indictment for a violation of Section 115, alleging an instrument is false, forged, or both. The prosecutor must send written notice by certified mail to all those who may have an interest in the property. If the instrument sought to be declared void is real property, interested parties include, but are not limited to, all parties who have recorded with the county recorder in the county where the affected property is located: a deed, lien, mortgage, deed of trust, security interest, lease, or other instrument declaring an interest in the property affected by the false or forged instrument.

The notice must inform the parties of their right to be heard when the motion is brought and give a description of the property. The prosecutor is also required to file a notice in the county where the real property is located. If the case is adjudicated or dismissed without obtaining an order to void the false or forged instrument, the prosecution must withdraw the notice to the county within 10 calendar days. Failure to provide notice does not prevent the prosecution from seeking the motion but is grounds for the court to grant additional time to interested parties.

The court must set a hearing for the motion no earlier than 90 calendar days from the date the motion is made. At the hearing, the prosecutor, defendant, and interested parties have a right to be heard and present information to the court. If the court determines that in the interest of justice, the matter should be more appropriately settled in a civil proceeding, the court may decline to make a determination on the motion. The court may also consider any quiet title action filed prior to the hearing as an additional but not dispositive factor in making its determination. However, a final judgment previously entered in that quiet title action must be followed to the extent required by law.

3. Mental Competency in Criminal Proceedings

The Due Process Clause of the U.S. Constitution prohibits the criminal prosecution of a defendant who is not mentally competent to stand trial. Existing law provides that if a person has been charged with a crime and is not able to understand the nature of the criminal proceedings or is to assist counsel in his or her defense, the court may determine that the offender is incompetent to stand trial (IST). (Pen. Code § 1367.) When the court issues an order for a hearing into the present mental competence of the defendant, all proceedings in the criminal prosecution are suspended until the question of present mental competence has been determined. (Pen. Code, §1368, subd. (c).)

In order to determine mental competence, the court must appoint a psychiatrist or licensed psychologist to examine the defendant. If defense counsel opposes a finding on incompetence, the court must appoint two experts: one chosen by the defense, one by the prosecution. (Pen. Code, § 1369, subd. (a).) The examining expert(s) must evaluate the defendant's alleged mental disorder and the defendant's ability to understand the proceedings and assist counsel, as well as address whether antipsychotic medication is medically appropriate. (Pen. Code, § 1369, subd. (b).)

A determination of the defendant's competency to stand trial is generally decided by a jury. (Pen. Code, § 1369.) A formal trial is not required when jury trial has been waived. (*People v. Harris* (1993) 14 Cal.App.4th 984.) The burden of proof is on the party seeking a finding of incompetence. (*People v. Skeirik* (1991) 229 Cal.App.3d 444, 459-460.) Because a defendant is initially presumed competent to stand trial (*Medina v. California* (1992) 505 U.S. 437; Pen. Code, § 1369, subd. (c)(3)), this usually means that the defense bears the burden of proof to establish incompetence. As a result, the defense counsel must first present evidence to support a finding of mental incompetence. The defendant's mental incompetence must be proven by a preponderance of the evidence. (Pen. Code, § 1369, subd. (c)(3).)

If after an examination and hearing the defendant is found IST, the criminal proceedings are suspended and the court must order the defendant to be referred to the Department of State Hospitals (DSH), or to any other available public or private treatment facility, including a community-based residential treatment system if the facility has a secured perimeter or a locked and controlled treatment facility, approved by the community program director that will promote the defendant's speedy restoration to mental competence, or placed on outpatient status, except as specified. (Pen. Code §§ 1368, subd. (c), 1370, subd. (a)(1)(B).) The court may also make a determination as to whether the defendant is an appropriate candidate for mental health diversion pursuant to Penal Code section 1001.36. (Pen. Code, § 1370, subd. (a)(1)(B).)

At the end of two years from the date of commitment or a period of commitment equal to the maximum term of imprisonment provided by law for the most serious offense charged, whichever is shorter, but no later than 90 days prior to the expiration of the defendant's term of commitment, a defendant who has not recovered mental competence must be returned to the committing court, and custody of the defendant is transferred without delay to the committing county and remains with the county until further order of the court. (Pen. Code, § 1370, subd. (c)(1).) The court is prohibited from ordering the defendant returned to the custody of DSH under the same commitment. (*Ibid.*)

Over the last decade, the number of people in California charged with a felony offense and found IST has increased significantly, far outpacing the state's ability to provide timely services in response. The problem is described in an analysis of a mental health budget proposal from 2023:

The state treats the majority of felony ISTs in state hospitals; however, many individuals wait in county jails for many months given the limited number of DSH beds, which has resulted in a waitlist of felony ISTs who have not been admitted to DSH. The treatment provided to felony ISTs—known as 'competency restoration treatment'—differs from general mental health treatment. The objective of competency restoration treatment is to treat a felony IST until they are competent enough to face their criminal charge, rather than provide comprehensive treatment for an underlying mental health condition.¹

¹ Legislative Analyst's Office, *The 2022-23 Budget: Analysis of the Governor's Major Behavioral Health Proposals* (Feb. 16, 2023), p. 11 <<https://lao.ca.gov/reports/2022/4569/Bahavioral-Health-Proposals-030322.pdf>>.

4. Effect of This Bill

This bill was introduced to address cases in which a defendant is being prosecuted for a violation of Section 115 but the defendant is either not technically convicted (e.g., in the case of diversion) or the criminal proceedings are delayed (e.g., due to competency proceedings). As noted above, Penal Code section 1368 requires all proceedings in a criminal prosecution to be suspended when an inquiry into the mental competence of the defendant has been commenced by the court until the question has been determined. Criminal defendants generally have two years to undergo remediation services to restore competency. Because all proceedings are suspended, the hearing on whether the instrument is void is delayed while the issue of competency is resolved. The proponents of the bill argue that delay (and the possibility of no conviction if competency is not restored) creates real harm to property owners who are the victims of false or forged deeds.

This bill seeks to address this problem by allowing the court to issue an order declaring a document false or forged after the defendant is charged with knowingly procuring or offering any false or forged instrument to be filed rather than after the defendant is convicted. This bill also provides for an alternative: the court can issue an order declaring a document false or forged if the defendant stipulates to the voiding of the false or forged instrument. This situation requires the prosecution to establish by clear and convincing evidence that there are no interested parties that would be adversely affected by voiding the instrument and requires the court to issue a written order that the false or forged instrument be adjudged void *ab initio* if it determines that an order is appropriate. As is the case under existing law, the court's order would have to state whether the instrument is false or forged, or both, and describe the nature of the falsity or forgery.

This bill shortens the timeframe for hearing on the motion to void the false or forged instrument to no earlier than 30 days from the date the motion is made instead of no earlier than 90 days from the date the motion is made.

In the event that a defendant enters competency proceedings, the court would be allowed to conduct the hearing on a motion brought by a prosecuting agency at any time before or after the defendant is determined incompetent to stand trial. The bill also authorizes the court to hear the motion without personal participation of the defendant.

This bill authorizes the court, if it determines by clear and convincing evidence that the instrument is false or forged, to issue a written order at a hearing on a motion brought by a prosecuting agency. Finally, this bill authorizes the hearing on a motion to be brought by a prosecuting agency to be held concurrently with the preliminary examination of the defendant.

This bill raises several questions. First, is it appropriate to allow the hearing on the motion to occur once the defendant has been *charged* with filing a false or forged document rather than upon *conviction*? While there may be straightforward cases, arguably, there will be many complicated cases with several interested parties. Given that there is an entire civil court process to adjudicate quiet title claims (which are not predicated on a criminal conviction), is this change necessary at all? Second, this bill decreases the amount of time between the date the motion is made for a hearing to void the false or forged instrument and the earliest date the court can schedule a hearing. Does 30 days provide sufficient time for all interested parties to be noticed and prepare for the hearing?

Should the court be permitted to conduct the hearing to void the false or forged instrument once a defendant enters competency proceedings? While this may be done in other contexts, is it appropriate to do so in this one?

5. Argument in Support

The San Diego District Attorney's Office, the bill's sponsor, writes:

Under existing law, it is a felony to knowingly procure or offer a false or forged instrument to be recorded in a California public office. A prime example of this crime would be submitting a fake deed to the county recorder to falsely claim ownership of a property. If the property is already owned, the true owner faces a cloud on the title, meaning there is uncertainty about the property's legal owner. This legislation will significantly reduce the time required to void a false document thereby removing the cloud on title to a victim's property.

In its current form, Penal Code section 115 requires a conviction before the prosecution can move the criminal court to void a false document that has been recorded. The problem posed by this requirement is that obtaining a conviction in these cases can frequently take an inordinate amount of time. In some instances, such as when a court grants a defendant's diversion motion or a defendant is found incompetent pursuant to PC 1368, a conviction may never occur. Meanwhile, the cloud on title to a victim's property remains, and the owner cannot sell, mortgage, or otherwise transfer/encumber their property resulting in substantial financial and emotional hardship for the victim.

By requiring a conviction before permitting the court to void a false document, Penal Code section 115 in its current form can lead to results that are unfair and needlessly delay returning title to the victim. Among numerous examples, below are brief summaries of two cases recently prosecuted by our office that would have greatly benefited from this legislation:

1. Defendant forged the victim/true owner's name on a deed transferring the property to herself to avoid eviction. She recorded the forged deed thereby making it appear on public records that Defendant owned the property and clouding the title for the true owner. After the case was filed, she delayed trial for three years. She fired three attorneys before representing herself. She then filed numerous frivolous motions, and she faked multiple medical emergencies including one on the day of trial. In the meantime, the property remained in Defendant's name. Defendant remained in physical possession of the property and a cloud remained on title meaning the victim could not sell or mortgage his property. Three years after the case was filed, the prosecution tried the case in front of a jury. The jury found Defendant guilty on all charges after deliberating for less than two hours. At sentencing one month later, the Court, pursuant to the prosecution's previously filed motion, voided the false deed finally removing the cloud on title.

2. Defendant recorded a deed transferring a property that she had no legal interest in to herself. As in the previous example, this made it appear on public records that Defendant owned the property and clouded the title for the true owner.

Approximately four months after the case was filed, Defendant entered competency proceedings pursuant to Penal Code section 1368. Approximately 15 months after the case was filed, Defendant was found incompetent to stand trial and entered treatment to restore competency. Almost two years after the case was filed, Defendant filed and the Court granted a mental health diversion motion. Because there was no conviction, the prosecution could not file and the Court could not grant a motion to void the false deed. The property still remains in Defendant's name, and the victim continues to await a resolution in this long and emotional ordeal.

SB 1307 modifies Penal Code section 115 to address these injustices by allowing prosecutors to seek a court order to void a false or forged recorded document once charges are filed, allowing the public record to be corrected earlier and reducing the time a fraudulent document remains recorded clouding the true owner's title. The modification also permits a defendant to stipulate to the voiding of a false deed in appropriate circumstances. Additionally, SB 1307 permits the prosecution to file and the Court to grant a motion to void a false deed when a defendant has entered PC 1368 proceedings. Finally, the bill reduces the minimum time to conduct the hearing after the prosecution files a motion from 90 to 30 days.

At the same time, SB 1307 protects a defendant's right to due process by requiring the prosecution to prove by clear and convincing evidence that the document is false. Defendants are further protected because the Court maintains the discretion to deny the motion should circumstances dictate.

6. Argument in Opposition

The California Public Defenders Association writes:

It is already the law that after a noticed hearing any false or forged instrument may be judged to be void ab initio. The key, though, is that this hearing may only occur *after* a conviction or a plea. Currently, the law allows this hearing to occur even if the specific charge was dismissed as long as a "instrument is false or forged, the person would have to put on a defense that might require the defendant to testify or would expose the defense prior to the trial and outside the bounds of criminal discovery. Forcing a defendant to testify would be unconstitutional as a violation of the Fifth Amendment.

SB 1307 also allows the falsity hearing to occur even though a defendant might be incompetent to stand trial. It is clear that a person who is incompetent to stand trial cannot be adjudicated to guilt or punishment. Penal Code section 1368 states that "[e]xcept as provided in Section 1368.1, when an inquiry into the present mental competence of the defendant has been commenced by the court all proceedings in the criminal prosecution shall be suspended until the question of the present mental competence of the defendant has been determined." It is the law that the only proceedings which can occur are those capable of fair determination without the defendant's personal participation may be heard when proceedings are suspended due to suspected or determined incompetency. (Penal Code § 1368.1, subd. (d).) The proposed amendments allow a hearing to proceed even if the matter is incapable of fair determination without the defendant's

personal participation. Again, the proposed amendments appear to violate equal protection and due process of laws and would thus be unconstitutional.

SB 1307 also allows the falsity hearing to occur even though a defendant might be incompetent to stand trial. It is clear that a person who is incompetent to stand trial cannot be adjudicated to guilt or punishment. Penal Code section 1368 states that “[e]xcept as provided in Section 1368.1, when an inquiry into the present mental competence of the defendant has been commenced by the court all proceedings in the criminal prosecution shall be suspended until the question of the present mental competence of the defendant has been determined.” It is the law that the only proceedings which can occur are those capable of fair determination without the defendant’s personal participation may be heard when proceedings are suspended due to suspected or determined incompetency. (Penal Code § 1368.1, subd. (d).) The proposed amendments allow a hearing to proceed even if the matter is incapable of fair determination without the defendant’s personal participation. Again, the proposed amendments appear to violate equal protection and due process of laws and would thus be unconstitutional.

SB 1307 also allows the hearing to be held concurrent with a preliminary hearing. Defendants rarely testify at a preliminary hearing. As mentioned above, should a defendant wish to contest the finding that an instrument is forged or false, the person could be forced to testify. Also, when a preliminary hearing is held and a defendant is incompetent, upon a motion pursuant to Penal Code section 995 the defendant is entitled to a new preliminary hearing. (See *People v. Duncan*, (2000) 78 Cal.App.4th 765.) The amendments are silent about what would happen if the hearing pursuant to this section is held at preliminary hearing with an incompetent defendant.

This bill must be amended to delete the changes to Penal Code section 115, subdivision (e)(1)(A). The falsity hearing must not occur until after a conviction or a plea.

We do not, however object to subdivision (e)(1)(B). The proposal in this section is to allow a defendant to stipulate that instruments are false or forged. That is a sensible proposition.

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