

Date of Hearing: June 23, 2026
Counsel: Kimberly Horiuchi

ASSEMBLY COMMITTEE ON PUBLIC SAFETY

Nick Schultz, Chair

SB 1307 (Jones) – As Amended June 17, 2026

SUMMARY: Authorizes a defendant who was charged with knowingly filing, registering, or recording a false or forged instrument and receives diversion, as specified, to stipulate to the voiding of the false or forged instrument. Specifically, **this bill:**

- 1) Requires the court, upon written motion by the prosecution, after a hearing, as specified, to issue a written order that the false or forged instrument be adjudged void *ab initio*¹ if the court determines that an order is appropriate.
- 2) Mandates the order state whether the instrument is false or forged, or both false and forged, and describe the nature of the falsity or forgery.
- 3) States a copy of the instrument shall be attached to the order at the time it is issued by the court, and a certified copy of the order shall be filed, registered, or recorded at the appropriate public office by the prosecuting agency.
- 4) States if the defendant withdraws from diversion or fails to complete the terms of diversion and criminal proceedings are reinstated, the stipulation to void the false or forged instrument shall not be used in connection with any civil or criminal proceeding without the defendant's consent.
- 5) Prohibits a defendant's failure to stipulate to the voiding of the false or forged instrument from being used as grounds for denial of diversion or a finding that the defendant has failed to comply with the terms of diversion.
- 6) States that if the defendant withdraws from diversion or fails to complete the terms of diversion and criminal proceedings are reinstated, the stipulation to void the false or forged instrument shall not be used in connection with any civil or criminal proceeding without the defendant's consent.

EXISTING LAW:

- 1) 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).)

¹ *Ab initio* is a Latin term that means "from the beginning" or "from inception." *Ab initio* is used to indicate that some fact existed from the start of a relevant time period. It is often used as part of the phrase "void ab initio," meaning something (like a contract) was void from the beginning.

- 2) Provides that each instrument which is procured or offered to be filed, registered, or recorded constitutes a separate violation. (Pen. Code, § 115, subd. (b).)
- 3) Prohibits probation from being granted or the suspension of the execution or imposition of sentence, for any of the following persons:
 - a) 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.
 - b) 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).)
- 4) 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).)
- 5) 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).)
- 6) 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).)
- 7) Specifies the procedures a prosecuting agency must follow in filing a motion to void the false or forged instrument. (Pen. Code, § 115, subd. (f).)

FISCAL EFFECT: Unknown.

COMMENTS:

- 1) **Sponsor:** San Diego District Attorney's Office
- 2) **Author's Statement:** 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 generally 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, a conviction may never occur. During this time, victims may be unable to sell, refinance, or otherwise make use of their property. Without a conviction, the victim's only recourse is often to file a civil lawsuit to determine rightful ownership of

the property. These proceedings can be costly, time-consuming, and require hiring a private attorney, which many victims simply cannot afford, leaving them without meaningful relief.”

- 3) **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.)

Penal Code section 115 applies to any “instrument” that, “if genuine, might be filed, registered, or recorded under any law of this state or of the United States” (Pen. Code, § 115, subd. (a).) Existing law defines “instrument” broadly, including any type of document that is filed or recorded with a public agency that, if acted on as genuine, would have the effect of deceiving someone. (See *People v. Parks* (1992) 7 Cal.App.4th 883, 886–887; *Generes v. Justice Court* (1980) 106 Cal.App.3d 678, 682–684.) Therefore, the courts have held that “instrument” includes a modified restraining order. (*People v. Parks, supra*, 7 Cal.App.4th at p. 886), false bail bonds (*People v. Garcia* (1990) 224 Cal.App.3d 297, 306–307), and falsified probation work referrals (*People v. Tate* (1997) 55 Cal.App.4th 663, 667).

In *People v. Parks*, the defendant assaulted the new boyfriend of his former girlfriend. Defendant, not the victim, filed for a temporary restraining order prohibiting his ex-girlfriend and the new boyfriend from contacting defendant. However, when he sought to have the local Marshal serve the restraining order, the defendant added language to the restraining order that appeared to require the ex-girlfriend and the new boyfriend to vacate their home. The Marshal realized the scam and charged the defendant with filing a false document pursuant to Penal Code section 115. The court rejected the defendant’s argument on appeal that the restraining order was not an “instrument.” (*Parks, supra*, 7 Cal.App.4th at p. 887.) In its holding, the court stated:

As enacted in 1872, section 115 was one of five sections (§ 113, 114, 115, 116, and 117) which formed chapter 4 of the Penal Code. Chapter 4 was and is entitled "Forging, Stealing, Mutilating, and Falsifying Judicial and Public Records and Documents." The "ostensible objects to be achieved" were the integrity of "judicial and public records." The "evils to be remedied" clearly included "forging, stealing, mutilating, and falsifying" such records. Whatever else may be meant by the word "instrument," on these facts we find that protection of judicial and public records such as the documents in this case was clearly within the legislative intent of section 115.

(*Parks, supra*, 7 Cal.App.4th at 887.)

Several years later, in *People v. Powers* (2004, 117 Cal.App.4th 291, 297), the court held that fishing records were “instruments” under Penal Code section 115. However, the court stated that “California courts have shown reluctance to interpret section 115 so broadly that it encompasses any writing that may be filed in a public office.” (*Id.* at p. 295.)

The court adopted the following analysis for whether a document is an “instrument,” quoting the Washington Supreme Court:

“(1) the claimed falsity relates to a material fact represented in the instrument; and (2a) the information contained in the document is of such a nature that the government is required or permitted by law, statute or valid regulation to act in reliance thereon; or (2b) the information contained in the document materially affects significant rights or duties of third persons, when this effect is reasonably contemplated by the express or implied intent of the statute or valid regulation which requires the filing, registration, or recording of the document.”

(*Id.* at p. 297 quoting *State v. Price* (1980) 94 Wash.2d 810, 819.)

Penal Code section 115 most often arises in cases where a false or fraudulent deed is recorded with the county. False or forged deeds were filed at record numbers during the years leading up to the Great Recession. 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. (*Generes v. Justice Court, supra*, 106 Cal.App.3d at 682.)

- 4) **Voiding a False or Forged Document:** 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 on 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.

This bill states that if the defendant is granted diversion, they may stipulate that the instrument was, in fact, forged or false, at the time it was filed. The district attorney, thereafter, must undertake an effort to notify any interested third parties that may be affected by the voiding of the instrument and grant them the right to be heard at a hearing. If, for whatever reason, the defendant fails to complete diversion, the agreement to void the instrument may not be used against the defendant during the subsequent criminal proceeding.

As an example, Mr. Packer purchases two acres of a four acre plot of land. But, because Mr. Packer does not want any neighbors, he records a forged deed claiming he owns all four acres of land. A few years later, however, Mr. Dunder, the actual owner of the other two acres, passes away after spending several years in a nursing home. He bequeaths all of his assets to his favorite granddaughter, Pam.

Pam wants to develop the property and takes steps to quiet title and file an updated deed reflecting her ownership in her grandfather's land. During the process, Pam's attorney, Ms. Levinson, finds Mr. Packer's deed and realizes he has recorded a forged deed for all four acres. Pam's attorney immediately reports Mr. Packer to the police, and Mr. Packer is arrested for, among other things, recording a forged document. Mr. Packer is granted diversion and is required to pay a fine and attend a class on ethical business dealings. He also agrees to stipulate the deed was forged and was never valid.

A hearing is set to determine any third party interests. Ms. Levinson notifies the district attorney of Pam's interest in the property and, after researching the parcel, the prosecutor determines Pam is the only person who has any legal claim to the property. The court agrees, and Pam may now record a deed demonstrating her ownership in the two acres. Mr. Packer pays the fine, but refuses to participate in the ethics class. He is kicked out of diversion, is later convicted of filing a false deed, and sentenced to sixteen months in state prison.

- 5) **Argument in Support:** According to the *California District Attorneys Association*, "SB 1307 would provide an important tool for making victims whole without negative impact on the procedural rights of a defendant charged with a crime.

"Victims of real estate fraud have long faced a daunting challenge in quieting title in the wake of the filing of a forged or fraudulent instrument. Victims who cannot afford complex civil litigation are often sidelined while their property is wrongly encumbered. Moreover, the increase of diversion programs within the criminal law in recent years puts relief further out of reach for many, and in some cases could frustrate them indefinitely.

“SB 1307 would expand the ability for the criminal courts to clear title for victims of fraud by allowing the criminal court to issue an order that will clear title without requiring a cumbersome evidentiary hearing. By allowing the court to issue a written order that the false or forged instrument be adjudged void ab initio upon stipulation of the parties, SB 1307 would give prosecutors the much-needed ability to quickly address the wrong visited upon victim of criminal fraud.”

- 6) **Argument in Opposition:** Prior opposition no longer relevant.
- 7) **Related Legislation:** AB 2553 (Petri-Norris) would provide that for a person who is granted probation for certain convictions relating to crimes involving real property, probation may be extended for one additional year under specified circumstances. AB 2553 has been referred to the Senate Public Safety Committee.
- 8) **Prior Legislation:** AB 1698 (Wagner), Chapter 455, Statutes of 2014, provided a process to allow a judge to declare an instrument void when there is a criminal action finding that instrument forged or false.

REGISTERED SUPPORT / OPPOSITION:

Support

San Diego County District Attorney's Office (Sponsor)
California District Attorneys Association
Fidelity National Title Company
Office of the District Attorney of Orange County
Riverside County District Attorney
San Bernardino County District Attorney's Office

Opposition

California Attorneys for Criminal Justice

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