

Date of Hearing: June 16, 2026

ASSEMBLY COMMITTEE ON MILITARY AND VETERANS AFFAIRS

Pilar Schiavo, Chair

SB 1354 (Archuleta) – As Amended April 23, 2026

SENATE VOTE: 30-9

SUBJECT: The military: defense of the state.

SUMMARY: Prohibits military personnel of another state, territory, or district from entering, or causing something to enter, California to perform military duty or law enforcement functions without the permission of the Governor. Exempts personnel acting under federal Title 10 authority, allows the Governor to delegate approval authority to The Adjutant General (TAG), and makes a violation punishable by a fine of up to \$10,000, imprisonment, or both. Specifically, **this bill:**

- 1) Prohibits military personnel of another state, territory, or district from entering, or causing something to enter, California to perform military duty or law enforcement functions without the permission of the Governor.
- 2) Provides that a violation is punishable by a fine not exceeding \$10,000, imprisonment in county jail not exceeding one year, or both.
- 3) Exempts military personnel who have been called into active federal service under Title 10 of the United States Code (U.S.C.) and who are acting under the authority of the President of the United States or the United States Secretary of Defense.
- 4) Authorizes the Governor to delegate the authority to grant permission for military personnel of another state, territory, or district to enter California to TAG.

EXISTING FEDERAL LAW:

- 1) Establishes the conditions under which state militia forces are organized, trained, equipped, and funded by the federal government, and authorizing their activation for specified federal missions while remaining under state command. (32 U.S.C. §§ 101 *et. seq.*)
- 2) Authorizes National Guard members to be ordered to perform full-time, active duty for training, operational activities, or missions. Allows the National Guard to conduct operations at the request of the President or Secretary of Defense and provides Governors with the authority to either accept or refuse a federal request. Specifies that when National Guard operations are conducted at the request of federal officials, the troops are federally funded but remain under the command of their Governor and TAG. (32 U.S.C. § 502(f))
- 3) Authorizes the federal government to activate state militia forces for specified federal missions and subsuming these forces under federal control. (10 U.S.C. §§ 10001 *et. seq.*)
- 4) Grants the President of the United States the authority to call members and units of the National Guard of any state into active federal service if the President is unable with the regular military forces to execute the laws of the United States. Allows the President to federalize the National Guard without a governor's consent. (10 U.S.C. § 12406.)

- 5) Prohibits the use of the federal military, specifically any part of the Army, the Navy, the Marine Corps, the Air Force, or the Space Force, to execute domestic civilian laws under penalty of a fine or imprisoned not more than two years, or both. Note: this is known as The Posse Comitatus Act of 1878. (18 U.S.C. § 1385)

EXISTING STATE LAW:

- 1) Establishes the Governor of California as the Commander in Chief of the State Militia and grants the Governor the constitutional authority to call forth the militia to execute the laws of the state. (California Constitution, Article V, § 7)
- 2) Ratifies California's participation in the Interstate Civil Defense and Disaster Compact for the purpose of providing mutual aid among the states in meeting any emergency or disaster from enemy attack or other cause, as specified. (Government Code (GOV), §§ 177-178.5)
- 3) Ratifies California's participation in the Emergency Management Assistance Compact (EMAC), for the purpose to provide for mutual assistance between the participating member states in managing any emergency or disaster that is duly declared by the governor of the affected state, whether arising from natural disaster, technological hazard, manmade disaster, civil emergency aspects of resource shortages, community disorders, insurgency, or enemy attack. (GOV §§ 179-179.9)
- 4) Defines "state of war emergency" as "the condition that exists immediately, with or without a proclamation thereof by the Governor, whenever this state or nation is attacked by an enemy of the United States, or upon receipt by the state of a warning from the federal government indicating that an enemy attack is probable or imminent." (GOV § 8558, subd. (a))
- 5) Provides that any regularly employed law enforcement officer of the Oregon State Police, the Nevada Department of Motor Vehicles and Public Safety, or the Arizona Department of Public Safety is a peace officer in this state if several specified conditions are met, including that the adjoining state employing the officer confers similar rights and authority upon a member of the California Highway Patrol who renders assistance within that state. (Penal Code § 830.39)
- 6) Establishes the active militia of the State consisting of the National Guard, State Guard, and the Naval Militia. Specifies that the unorganized militia comprises of all individuals who are eligible for service in the active militia but are not part of the National Guard, State Guard, or Naval Militia. (Military & Veterans Code (MVC) §§ 120-121)
- 7) Provides that the Governor of the State, by virtue of his office, is the Commander in Chief of the Militia of the State. (MVC § 140)
- 8) Specifies that the staff of the Governor includes TAG and various aides chosen from the National Guard and Naval Militia for the duration of the Governor's term. Authorizes the Governor to appoint, among these personal aides, five aides-de-camp, each with the rank of lieutenant colonel, and one naval aide with the rank of commander. Considers these appointments to be official commissions for the aides-de-camp. (MVC § 141)

- 9) Authorizes the Governor to order the active militia or any portion of it to perform military duty of every description, including necessary administrative duties, in this state or any other state or territory, as specified. (MVC § 142)
- 10) Authorizes the Governor to call into active service any portion of the active militia as may be necessary, and if the number available is insufficient, allows the Governor to call into active service any portion of the unorganized militia as deemed necessary, in any of the following events:
- a) In case of war, insurrection, rebellion, invasion, tumult, riot, breach of the peace, public calamity or catastrophe, as specified;
 - b) Upon call or requisition of the President of the United States;
 - c) Upon call of any United States marshal in California, or upon call of any officer of the United States Army commanding an army, as specified, or upon call of any officer of the United States Air Force commanding an air force, as specified;
 - d) Upon call of the chief executive officer of any city or city and county, or of any justice of the Supreme Court, or of any judge of the superior court, or of any sheriff, setting forth that there is an unlawful or riotous assembly with intent to commit a felony, or to offer violence to person or property, or to resist the laws of the State of California or the United States or that there has occurred a public calamity or catastrophe requiring aid to the civil authorities; or,
 - e) Upon call of the sheriff setting forth that the civil power of the county is not sufficient to enable the sheriff to execute process delivered to them. (MVC § 146)
- 11) Specifies TAG is the chief of staff to the Governor, subordinate only to the Governor and is the commander of all state military forces. (MVC § 160)

FISCAL EFFECT: None.

COMMENTS:

- 1) PURPOSE OF THIS BILL.** According to the author, the Title 10 activation of National Guard personnel across the country this past summer drew attention to state and federal authorities governing the use of National Guard in domestic situations. While Governors do not have command and control over their National Guards or other Military Forces in a Title 10 (Federal Active Duty) status, they do retain command and control over their National Guards in the traditional Title 32 Status and for state emergency activations. This bill protects state sovereignty by ensuring that military personnel from other states only enter California for appropriate missions and training. Other states' military forces should not be used to enforce federal law in California unless activated under the correct federal authority.

This bill would prohibit military personnel from another state, territory, or district from entering California to perform military duty or law enforcement functions unless they have permission from the Governor, or from TAG if the Governor delegates that authority. This bill would not apply to personnel serving in federal active-duty status under Title 10 of the United States Code.

2) BACKGROUND.

- a) **California Military Department.** In California, the Military Department is led by TAG, who is the top military official in the state and oversees both the California National Guard and the State Guard. The Governor acts as the Commander in Chief of the state's militia. California law currently lacks a clear requirement for military forces from other states to seek permission from the Governor before entering the state for military or law enforcement duties. This topic has gained more visibility recently due to ongoing debates surrounding the deployment of military personnel in domestic settings. A notable example is the activation of National Guard troops under Title 10 in Los Angeles in June 2025, which has led to litigation concerning federal authority, state oversight, and the appropriate role of military forces in civilian situations. Various states, including Maryland, Texas, Kansas, Oklahoma, Idaho, North Dakota, and Washington, have passed similar legislation, and Oregon has also introduced related bills.
- b) **EMAC.** Federal law supports cooperation between states during emergencies through EMAC. When a governor declares an emergency, they can quickly ask for help from other participating states. EMAC, approved by Congress in 1996, allows for assistance with different types of crises, from natural disasters to terrorism. When a state's resources run low, other states, including National Guard units, can provide the necessary support. In times of national emergencies, EMAC helps governors find and use the resources they need to respond effectively. EMAC strictly operates on the principle of mutual aid, requiring a formal request for assistance and consent from the host state's governor to activate. California plays a vital role in the national network that includes all 50 states and territories such as Guam, Puerto Rico, and the U.S. Virgin Islands. To access state funds and activate EMAC, the Governor of California must officially declare an emergency or disaster. The coordination of EMAC for the state is managed by the California Governor's Office of Emergency Services. EMAC establishes a solid, legally binding agreement that addresses cross-border liability, ensures that credentials and certifications are recognized, and leverages federal grant dollars.
- c) **National Guard Deployment.** The National Guard serves as a backup for the U.S. Armed Forces and can also help state governors during civil unrest, natural disasters, or health emergencies and allows the National Guard to operate in what's called "Title 32 status." This is one of three ways Guard members can serve. In "State Active-Duty status," they work on missions defined by the state, following state command, and using state resources. When in "Title 10 status," the Guard is on federal duty, meaning they follow federal command and are funded by the federal government. Title 32 status is a middle ground; the Guard stays under state control while being able to carry out federal tasks, funded federally and receiving federal benefits. Importantly, because they are under state command in Title 32 status, they are not considered federalized and can take part in civilian law enforcement activities provided those actions are authorized under state law. However, in the summer of 2020, the Trump Administration used this authority in a new way by bringing in unfederalized, out-of-state Guard troops into Washington, D.C. to respond to protests, against the public objections of D.C.'s Mayor.

Domestic deployment of the military should be a last resort. American law generally discourages military involvement with civilians unless there's an emergency. Using the military domestically can also create problems for the troops. While sometimes

necessary, these operations pull resources and focus away from the military's main job of ensuring national security. Many service members are against military involvement in law enforcement, as they joined the armed forces to serve and protect, not to police their communities. This sentiment is important, especially during a time when the military faces challenges in recruitment and retention. The National Guard is a professional force and faces these challenges. Although it still plays its traditional role in supporting local communities during crises, it has become more involved with the overall U.S. military in the last 30 years. Guard personnel are more likely to be trained in law enforcement than their active-duty counterparts, but many Guard units are frontline combat units trained and equipped to fight overseas, with comparatively little experience or training in responding to civil unrest.

d) Subsequent National Guard Deployments. Beyond deploying a state's national guard to support federal operations within its own territorial boundaries, the President has on many occasions invoked specific federal law authorizing him to federalize National Guard units from one state and deploy them into another, often over the explicit objections of the target state's governor. For instance, in September 2025, President Trump deployed 400 federalized members of the Texas and California National Guards to protect a federal building in Oregon, a move that was immediately challenged in federal court by both Oregon and California. Within days, a judge of the United States District Court for the District of Oregon issued a sweeping order barring the President, from deploying any National Guard forces – whether from California, Texas, or any other state or the District of Columbia – into Oregon. The day this order was issued, the Secretary of Defense invoked the same federal authority used in Oregon to federalize 300 members of the Illinois National Guard over the objection of that state's governor, as well as another 400 Texas National Guard soldiers for the purposes of deploying these troops into Chicago in support of Immigration and Customs Enforcement (ICE) operations. Once again, a federal court enjoined the deployment, ruling that the President improperly invoked his authority to press the National Guard into federal services under certain conditions.

3) SUPPORT. According to the California Public Defenders Association, this bill would make it a crime for military personnel from another state, territory, or district to enter California to perform military or law enforcement functions without permission of the Governor. Public defenders have long witnessed how unauthorized and overly aggressive law enforcement actions—particularly those involving militarized tactics and racial profiling—inflict deep and lasting harm on our clients and communities. This bill is a critical safeguard affirming that California will not tolerate unlawful or uncoordinated incursions by outside state or federal forces that threaten our residents' constitutional rights, safety, and peace of mind.

This bill's clear prohibition on out-of-state, unapproved military activity reinforces the Governor's constitutional authority as Commander in Chief of the state militia and ensures California retains control over any armed or law enforcement operations conducted within its borders. This bill helps prevent the misuse of military power in civilian contexts by ICE, especially against communities that already experience disproportionate policing and surveillance. By establishing meaningful penalties for violations, this bill sends a firm message that Californians value accountability, transparency, and respect for state sovereignty. It aligns with our state's longstanding commitment to due process, equal protection, and community safety built on trust not intimidation.

- 4) **POLICY CONCERNS.** This bill is similar to recent laws enacted in other states that require governors to approve the entry of outside military forces for military duty. The author points out that California lacks a clear law preventing outside military personnel from entering the state to perform military functions without the Governor's approval. The author's stated intent of this bill is to prohibit military personnel from other states or territories, when not federalized under Title 10, from entering California for military or law enforcement purposes without explicit approval from the Governor. While this bill prohibits out-of-state military personnel from performing "military duty" or "law enforcement functions," it does not define these terms. It also does not clarify how permission would work in situations like training, military schools, or interstate assistance deployments.

The author submitted amendments to this bill to specify the prohibition on "law enforcement functions" are "for another state". Specifically:

Military personnel of another state, territory, or district shall not enter, or cause something to enter, the state to perform military duty or law enforcement functions *for another state* without the permission of the Governor.

- 5) **DOUBLE REFERRAL.** This bill is double referred; upon passage in this committee, this bill will be referred to the Assembly Committee on Public Safety.

REGISTERED SUPPORT / OPPOSITION:

Support

California Public Defenders Association

Opposition

None on file.

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