

AMENDED IN SENATE MAY 23, 2025
AMENDED IN SENATE APRIL 10, 2025
AMENDED IN SENATE MARCH 26, 2025

SENATE BILL

No. 337

Introduced by Senator Menjivar

February 12, 2025

An act to amend Sections 289.6, 2639, and 6065 of, and to add Sections 2608, 2609, 2610, 2635.1, 5003.7, 6054, and 6126.1 to, the Penal Code, relating to prisons.

LEGISLATIVE COUNSEL'S DIGEST

SB 337, as amended, Menjivar. Prisons.

(1) Existing law establishes the Department of Corrections and Rehabilitation (department) and sets forth its powers and duties regarding the administration of correctional facilities and the care and custody of inmates. Existing law requires law enforcement agencies to consider specified best practices when establishing policies and procedures for downloading and storing data from body-worn cameras, including, among other things, prohibiting the unauthorized use, duplication, or distribution of the data, and establishing storage periods for evidentiary and nonevidentiary data, as defined.

This bill would require the department to establish policies and procedures that include circumstances under which a body-worn camera may be deactivated and would require the department to ensure that those policies and procedures prohibit a body-worn camera from being deactivated only because there is no incarcerated person present or if the correctional staff member is not interacting with an incarcerated person. The bill would require the department's policies and procedures

to authorize deactivation of a body-worn camera during specified confidential interactions and would require staff to inform the subject the reason for the deactivation and to document the time of the deactivation, the reason for the deactivation, and the time of reactivation.

This bill would require the department to adopt, and update regularly, a Prison Rape Elimination policy that would outline specified principles, including, among others, that the department maintains zero tolerance for sexual violence, staff sexual misconduct, and sexual harassment in its institutions, community correctional facilities, and conservation camps, and for all offenders under its jurisdiction.

(2) Under existing law, a person sentenced to imprisonment in a state prison for a felony offense, as specified, may, during that period of confinement, be deprived only of those rights as is reasonably related to legitimate penological interests. Existing law enumerates certain civil rights of these prisoners.

This bill would entitle a person incarcerated in a state prison to request the presence of an advocate during a physical or visual body cavity search, strip search, or body scan. The bill would require the department to document specified information, including whether the presence of an advocate was requested by the incarcerated individual, when an individual incarcerated in state prison is subject to any physical or visual body cavity search, strip search, or body scan of their person using a contraband or metal detection device or an electronic drug detection device. The bill would also require the department to document specified information if, during a medical appointment, an individual incarcerated in state prison requests the presence of an advocate who is not an employee of the department.

(3) Existing law requires members of the department's Office of Internal Affairs to possess certification from the Commission on Peace Officer Standards and Training for investigators, except as specified. Existing law requires the department to conduct a complete and thorough background check prior to training a peace officer who is selected to conduct internal affairs investigations and requires each person to satisfactorily pass the background check. Existing law states that any person who has been the subject of a sustained, serious disciplinary action, as specified, shall not pass the background check.

This bill would require an investigator to disclose an actual or potential conflict of interest they may have in an investigation in which they are participating. The bill would require the department to take appropriate action to remedy that conflict. The bill would require an

investigator to recuse themselves from participating in an investigation or a decision related to an investigation if they have a conflict of interest involving a staff member with whom they have a personal relationship, as defined.

(4) Existing law authorizes the secretary of the department to prescribe and amend rules and regulations for the administration of prisons. Under existing law, the State Civil Service Act, certain acts, including convictions of certain crimes, are cause for discipline of a state employee or of a person whose name appears on an employment list.

This bill would prohibit the department from appointing or promoting a person to a position that may involve any contact with incarcerated persons, or engaging a contractor for services that may involve contact with incarcerated persons, if that person or contractor has engaged in sexual abuse in a prison or other correctional facility or institution, as specified. The bill would prohibit the department from appointing or promoting any person to a position that may involve contact with incarcerated persons, or engaging a contractor for services that may involve contact with incarcerated persons, if that person or contractor has been convicted of certain offenses, including murder and rape, among others, or has been civilly or administratively adjudicated to have engaged in that conduct. The bill would require the department to consider any substantiated incident of sexual harassment in determining whether to appoint or promote an applicant and would require the department before appointing a new employee to make best efforts to contact all prior institutional employers for information on substantiated allegations of sexual abuse, among other things. The bill would require the department to conduct criminal background checks every 5 years of existing employees or implement a system to otherwise capture that information.

(5) Existing law makes it a misdemeanor for an employee or officer of a public entity health facility, or an employee, officer, or agent of a private person or entity that provides a health facility or staff for a health facility under contract with a public entity, to engage in sexual activity with a consenting adult who is confined in a health facility. Existing law additionally makes it a misdemeanor for specified individuals, including an employee or officer of a public entity detention facility or an employee with a department, board, or authority under the department, to engage in sexual activity with a consenting adult who is confined in a detention facility or who is an inmate, ward, or parolee,

as specified. Existing law makes it a felony for any subsequent violations for a person who was previously convicted of these violations. Existing law requires a person convicted of a felony violation of the above-described provisions who is employed by a department, board, or authority within the department to be terminated, as specified, and prohibits that person from being eligible to be hired or reinstated by the department. Existing law requires administrators to report criminal sexual abuse by staff to law enforcement authorities.

This bill would instead require that a person convicted of any violation of these provisions be terminated and prohibited from being reinstated by the department. The bill would also require that a person convicted of any violation of these provisions who is employed by a public entity health facility be terminated and made ineligible to be hired or reinstated by a public entity health facility. This bill would require administrators to report any known or suspected sexual abuse by staff to a local law enforcement agency.

(6) Existing law establishes the Office of the Inspector General that is responsible for, among other things, contemporaneous public oversight of internal affairs investigations and staff grievance inquiries conducted by the department's Office of Internal Affairs. Existing law requires the Office of the Inspector General to have investigatory authority over all staff misconduct cases that involve sexual misconduct with an incarcerated person, as specified.

This bill would authorize an incarcerated person to file an anonymous grievance relating to an allegation of sexual violence directly to the Office of the Inspector General, and would authorize the Inspector General to review any grievance filed from an incarcerated person, whether or not that grievance had been previously filed with the institution or hiring authority where the grievance occurred.

(7) Existing regulations establish a grievance procedure for individuals in the custody of, or under the supervision of, the department. Under those regulations, a claimant is required to submit a grievance no later than 60 calendar days after discovering an adverse policy, decision, action, condition, or omission by the department.

This bill would extend that time period to 120 calendar days.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 289.6 of the Penal Code is amended to
2 read:

3 289.6. (a) (1) (A) An employee or officer of a public entity
4 health facility, or an employee, officer, or agent of a private person
5 or entity that provides a health facility or staff for a health facility
6 under contract with a public entity, who engages in sexual activity
7 with a consenting adult who is confined in a health facility is guilty
8 of a public offense.

9 (B) As used in this section, “health facility” means a health
10 facility as defined in subdivisions (b), (e), (g), (h), and (j) of, and
11 subparagraph (C) of paragraph (2) of subdivision (i) of, Section
12 1250 of the Health and Safety Code, in which the victim has been
13 confined involuntarily.

14 (2) An employee or officer of a public entity detention facility,
15 or an employee, officer, or agent of a private person or entity that
16 provides a detention facility or staff for a detention facility, a
17 person or agent of a public or private entity under contract with a
18 detention facility, a volunteer of a private or public entity detention
19 facility, or a peace officer who engages in sexual activity with a
20 consenting adult who is confined in a detention facility is guilty
21 of a public offense.

22 (3) An employee with a department, board, or authority under
23 the Department of Corrections and Rehabilitation or a facility
24 under contract with a department, board, or authority under the
25 Department of Corrections and Rehabilitation, who, during the
26 course of their employment directly provides treatment, care,
27 control, or supervision of inmates, wards, or parolees, and who
28 engages in sexual activity with a consenting adult who is an inmate,
29 ward, or parolee, is guilty of a public offense.

30 (b) As used in this section, the term “public entity” means the
31 state, federal government, a city, a county, a city and county, a
32 joint county jail district, or any entity created as a result of a joint
33 powers agreement between two or more public entities.

34 (c) As used in this section, the term “detention facility” means:

35 (1) A prison, jail, camp, or other correctional facility used for
36 the confinement of adults or both adults and minors.

37 (2) A building or facility used for the confinement of adults or
38 adults and minors pursuant to a contract with a public entity.

1 (3) A room that is used for holding persons for interviews,
2 interrogations, or investigations and that is separate from a jail or
3 located in the administrative area of a law enforcement facility.

4 (4) A vehicle used to transport confined persons during their
5 period of confinement, including transporting a person after the
6 person has been arrested but has not been booked.

7 (5) A court holding facility located within or adjacent to a court
8 building that is used for the confinement of persons for the purpose
9 of court appearances.

10 (d) As used in this section, “sexual activity” means:

11 (1) Sexual intercourse.

12 (2) Sodomy, as defined in subdivision (a) of Section 286.

13 (3) Oral copulation, as defined in subdivision (a) of Section 287
14 or former Section 288a.

15 (4) Sexual penetration, as defined in subdivision (k) of Section
16 289.

17 (5) The rubbing or touching of the breasts or sexual organs of
18 another, or of oneself in the presence of and with knowledge of
19 another, with the intent of arousing, appealing to, or gratifying the
20 lust, passions, or sexual desires of oneself or another.

21 (e) Consent by a confined person or parolee to sexual activity
22 proscribed by this section is not a defense to a criminal prosecution
23 for violation of this section.

24 (f) This section does not apply to sexual activity between
25 consenting adults that occurs during an overnight conjugal visit
26 that takes place pursuant to a court order or with the written
27 approval of an authorized representative of the public entity that
28 operates or contracts for the operation of the detention facility
29 where the conjugal visit takes place, to physical contact or
30 penetration made pursuant to a lawful search, or bona fide medical
31 examinations or treatments, including clinical treatments.

32 (g) Any violation of paragraph (1) of subdivision (a), or a
33 violation of paragraph (2) or (3) of subdivision (a) as described in
34 paragraph (5) of subdivision (d), is a misdemeanor.

35 (h) Any violation of paragraph (2) or (3) of subdivision (a), as
36 described in paragraph (1), (2), (3), or (4) of subdivision (d), shall
37 be punished by imprisonment in a county jail not exceeding one
38 year, or in the state prison, or by a fine of not more than ten
39 thousand dollars (\$10,000) or by both that fine and imprisonment.

1 (i) Any person previously convicted of a violation of this section
2 shall, upon a subsequent violation, be guilty of a felony.

3 (j) A person who is convicted of a violation of this section who
4 is employed by a department, board, or authority within the
5 Department of Corrections and Rehabilitation shall be terminated
6 in accordance with the State Civil Service Act (Part 2 (commencing
7 with Section 18500) of Division 5 of Title 2 of the Government
8 Code). A person who has been convicted of a violation of this
9 section shall not be eligible to be hired or reinstated by a
10 department, board, or authority within the Department of
11 Corrections and Rehabilitation.

12 (k) Notwithstanding any other law, a person who is convicted
13 of a violation of this section who is employed by a public entity
14 health facility shall be terminated and shall not be eligible to be
15 hired or reinstated by a public entity health facility.

16 SEC. 2. Section 2608 is added to the Penal Code, immediately
17 following Section 2607, to read:

18 2608. (a) An individual incarcerated in a state prison shall
19 have the right to request the presence of an advocate, who is not
20 an employee of the Department of Corrections and Rehabilitation,
21 during a physical or visual body cavity search, strip search, or
22 body scan.

23 (b) The department shall accommodate the request to the best
24 of its ability.

25 SEC. 3. Section 2609 is added to the Penal Code, immediately
26 following Section 2608, to read:

27 2609. (a) When an individual incarcerated in state prison is
28 subject to any physical or visual body cavity search, strip search,
29 or body scan of their person using a contraband or metal detection
30 device or an electronic drug detection device, including, but not
31 limited to, ION scanners and low-dose, full-body x-ray scanners,
32 the Department of Corrections and Rehabilitation shall document
33 all of the following:

34 (1) The date and time of the search or scan, the officer who
35 performed the search or scan, the reason for the search or scan,
36 and whether the presence of an advocate was requested by the
37 incarcerated individual pursuant to Section 2608.

38 (2) The advocate's identifying information if the request for an
39 advocate was granted.

(3) The reason for denial if the request for an advocate was denied.

(b) During a medical appointment, if an individual incarcerated in state prison requests the presence of an advocate who is not an employee of the Department of Corrections and Rehabilitation, the department shall document all of the following:

(1) The request for the presence of an advocate during the medical appointment.

(2) The advocate's identifying information if the request for an advocate was granted.

(3) The reason for denial if the request for an advocate was denied.

(c) For purposes of this section, "identifying information" includes name, contact information, and affiliation or organization.

SEC. 4. Section 2610 is added to the Penal Code, immediately following Section 2609, to read:

2610. Notwithstanding paragraph (1) of subdivision (b) of Section 3482 of Title 15 of the California Code of Regulations, a claimant shall submit a grievance pursuant to Article 1 (commencing with Section 3480) of Subchapter 5.1 of Chapter 1 of Division 3 of Title 15 of the California Code of Regulations no later than 120 calendar days after discovering an adverse policy, decision, action, condition, or omission by the department.

SEC. 5. Section 2635.1 is added to the Penal Code, to read:

2635.1. (a) *The Department of Corrections and Rehabilitation shall adopt, and update regularly, a Prison Rape Elimination policy.*

(b) *As part of the policy, the department shall outline all of the following principles:*

(1) *The department maintains zero tolerance for sexual violence, staff sexual misconduct, and sexual harassment in its institutions, community correctional facilities, and conservation camps, and for all offenders under its jurisdiction.*

(2) *All sexual violence, staff sexual misconduct, and sexual harassment is strictly prohibited. This policy applies to all incarcerated persons and persons employed by the department, including volunteers and independent contractors assigned to an institution, a community correctional facility, a conservation camp, or parole.*

(3) Retaliatory measures against employees or incarcerated persons who report incidents of sexual violence, staff sexual misconduct, or sexual harassment as well as retaliatory measures against those who cooperate with investigations shall not be tolerated and shall result in disciplinary action and possible referral for criminal prosecution. Retaliatory measures include, but are not limited to, coercion, threats of punishment, or any other activities intended to discourage or prevent a staff member or incarcerated person from reporting the incident or cooperating with investigation of an incident.

(c) To ensure that the department maintains zero tolerance for sexual violence, staff sexual misconduct, and sexual harassment, the department shall ensure that the definitions and terms used by the department, including, but not limited to, terms such as sexual violence, abusive sexual contact, nonconsensual sex acts, and sexual harassment, are updated regularly and consistent with federal and state law, are culturally competent and gender inclusive, and are internally consistent.

~~SEC. 5.~~

SEC. 6. Section 2639 of the Penal Code is amended to read:

2639. The Department of Corrections and Rehabilitation shall ensure that the following procedures are performed in the investigation and prosecution of sexual abuse incidents:

(a) The provision of safe housing options, medical care, and the like shall not be contingent upon the victim's willingness to press charges.

(b) Investigations into allegations of sexual abuse shall include, when deemed appropriate by the investigating agency, the use of forensic rape kits, questioning of suspects and witnesses, and gathering of other relevant evidence.

(c) Physical and testimonial evidence shall be carefully preserved for use in any future proceedings.

(d) Staff attitudes that inmates and wards cannot provide reliable information shall be discouraged.

(e) If an investigation confirms that any employee has sexually abused an inmate or ward, that employee shall be terminated and shall not be eligible to be hired or reinstated by the department. Administrators shall report any known or suspected sexual abuse by staff to a local law enforcement agency.

(f) Consensual sodomy and oral copulation among inmates is prohibited by subdivision (e) of Section 286 and subdivision (e) of Section 287 or former Section 288a, respectively. Without repealing those provisions, the increased scrutiny provided by this article shall apply only to nonconsensual sexual contact among inmates and custodial sexual misconduct.

~~SEC. 6.~~

SEC. 7. Section 5003.7 is added to the Penal Code, to read:

5003.7. (a) The department shall establish policies and procedures relating to the implementation and operation of a body-worn camera system that include circumstances under which a body-worn camera may be deactivated. Those circumstances may include, but are not limited to, restroom breaks and confidential departmental meetings or training. The department shall ensure that its policies and procedures prohibit a body-worn camera from being deactivated only because there is no incarcerated person present or if the correctional staff member is not interacting with an incarcerated person.

(b) The department's policies and procedures shall authorize the deactivation of a body-worn camera during a confidential medical, dental, or mental health assessment, appointment, or consultation. Prior to deactivating a body-worn camera, staff shall do both of the following:

(1) Inform the subject that they are deactivating the body-worn camera and the reason for the deactivation.

(2) Document the time the body-worn camera was deactivated, the reason for the deactivation, and the time the body-worn camera was reactivated.

~~SEC. 7.~~

SEC. 8. Section 6054 is added to the Penal Code, to read:

6054. (a) The department shall not appoint or promote an individual to a position that may involve contact with incarcerated persons, and shall not engage a contractor for services that may involve contact with incarcerated persons, if that individual or contractor has engaged in sexual abuse in a prison, jail, lockup, community confinement facility, juvenile facility, or other correctional institution.

(b) The department shall not appoint or promote an individual to a position that may involve contact with incarcerated persons, and shall not engage a contractor for services that may involve

1 contact with incarcerated persons, if that individual or contractor
2 has been convicted of engaging or attempting to engage in any of
3 the following offenses:

4 (1) Murder.

5 (2) Kidnapping.

6 (3) Rape, as defined in paragraph (2) or (6) of subdivision (a)
7 of Section 261 or paragraph (1) or (4) of subdivision (a) of former
8 Section 262.

9 (4) Lewd acts on a child under 14 years of age, as defined in
10 Section 288.

11 (5) Any felony punishable by death or imprisonment in the state
12 prison for life.

13 (6) Any sex offense requiring registration pursuant to Section
14 290.

15 (7) An offense involving domestic violence, as defined in
16 Section 13700.

17 (c) The department shall not appoint or promote an individual
18 to a position that may involve contact with incarcerated persons,
19 and shall not engage a contractor for services that may involve
20 contact with incarcerated persons, if that individual or contractor
21 has been civilly or administratively adjudicated to have engaged
22 in any of the offenses described in subdivision (b).

23 (d) The department shall consider any substantiated incidents
24 of sexual harassment, including any complaint or allegation of
25 sexual harassment, in determining whether to appoint or promote
26 an applicant, or to enlist the services of any contractor, who may
27 have contact with incarcerated persons.

28 (e) Before appointing new employees to any position that may
29 involve contact with incarcerated persons, the department shall do
30 both of the following:

31 (1) Perform a criminal background records check.

32 (2) Consistent with federal, state, and local law, make its best
33 efforts to contact all prior institutional employers for information
34 on substantiated allegations of sexual abuse or any resignation
35 during a pending investigation of an allegation of sexual abuse.

36 (f) The department shall perform a criminal background records
37 check before enlisting the services of any contractor who may have
38 contact with incarcerated persons.

39 (g) The department shall either conduct criminal background
40 records checks every five years of employees and contractors who

1 may have contact with incarcerated persons or implement a system
2 to otherwise capture that information for current employees and
3 contractors.

4 (h) The department shall ask all applicants and employees who
5 may have contact with incarcerated persons directly about previous
6 misconduct described in subdivision (a) in written applications or
7 interviews for appointment or promotion and in any interviews or
8 written self-evaluations conducted as part of reviews of employees.
9 The department shall impose upon employees a continuing
10 affirmative duty to disclose any such misconduct.

11 (i) Material omissions regarding the misconduct described in
12 this section, or the provision of materially false information, are
13 grounds for termination.

14 (j) Unless prohibited by law, the department shall provide
15 information on substantiated allegations of sexual abuse or sexual
16 harassment involving a former employee upon receiving a request
17 from an institutional employer for whom that individual has applied
18 to work.

19 ~~SEC. 8.~~

20 *SEC. 9.* Section 6065 of the Penal Code is amended to read:

21 6065. (a) The Legislature finds and declares that investigations
22 of the Department of Corrections and Rehabilitation and its Office
23 of Internal Affairs require appropriately trained personnel who
24 perform their duties with honesty and credibility and without
25 conflict of interest.

26 (b) To meet the objectives stated in subdivision (a), the
27 following conditions shall be met:

28 (1) Prior to training a peace officer who is selected to conduct
29 internal affairs investigations, the department shall conduct a
30 complete and thorough background check. This background check
31 shall be in addition to the original background screening that was
32 conducted when the person was hired as a peace officer. Each
33 person shall satisfactorily pass the second background check. A
34 person who has been the subject of a sustained, serious disciplinary
35 action, including, but not limited to, termination, suspension, or
36 demotion, shall not pass the background check.

37 (2) All internal affairs allegations or complaints, whether
38 investigated or not, shall be logged and numbered sequentially on
39 an annual basis. The log shall specify, but not be limited to, the
40 following information: the sequential number of the allegation or

1 complaint, the date of receipt of the allegation or complaint, the
2 location or facility to which the allegation or complaint pertains,
3 and the disposition of all actions taken, including any final action
4 taken. The log shall be made available to the Inspector General.

5 (3) (A) An investigator shall disclose an actual or potential
6 conflict of interest they may have in an investigation in which they
7 are participating, and the department shall take appropriate action
8 to remedy the conflict.

9 (B) (i) An investigator shall recuse themselves from
10 participating in an investigation or a decision related to an
11 investigation if they have a conflict of interest involving a staff
12 member with whom they have a personal relationship.

13 (ii) A “personal relationship” is a relationship that interferes
14 with an investigator’s ability to assess the facts of the investigation
15 in an objective manner, including with a person who is related by
16 blood or marriage to, is a domestic partner of, is a cohabitant with,
17 or is a relative within the third degree of the investigator.

18 (c) Consistent with the objectives expressed in subdivision (a),
19 investigators shall conduct investigations and inquiries in a manner
20 that provides a complete and thorough presentation of the facts
21 regarding the allegation or complaint. All extenuating and
22 mitigating facts shall be explored and reported. The role of the
23 investigator is that of a factfinder. All reports prepared by an
24 investigator shall provide the appointing authority with a complete
25 recitation of the facts and shall refrain from conjecture or opinion.

26 (1) Uncorroborated or anonymous allegations shall not constitute
27 the sole basis for disciplinary action by the department, other than
28 an investigation.

29 (2) A report shall be submitted in a standard format, begin with
30 a statement of the allegation or complaint, provide all relevant
31 facts, and include the investigator’s signature certifying that they
32 have complied with the provisions of this section subject to
33 compliance with Sections 118.1 and 148.6.

34 ~~SEC. 9:~~

35 *SEC. 10.* Section 6126.1 is added to the Penal Code, to read:

36 6126.1. (a) An incarcerated person may file an anonymous
37 grievance relating to an allegation of sexual violence directly to
38 the Office of the Inspector General.

39 (b) The Inspector General may review any grievance filed from
40 an incarcerated person, whether or not that grievance had been

- 1 previously filed with the institution or hiring authority where the
- 2 grievance occurred.

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