

Introduced by Senator Menjivar

February 12, 2025

An act to amend Section 2642 of, and to add Sections 2642.1, 2642.2, 2645, and 6401.1 to, the Penal Code, relating to prisons.

LEGISLATIVE COUNSEL'S DIGEST

SB 337, as amended, Menjivar. ~~Prisons: sexual assault.~~ Prisons.

(1) Existing law authorizes the Secretary of the Department of Corrections and Rehabilitation to prescribe and amend rules and regulations for the administration of prisons. Existing law requires, at intake, every incarcerated person to be asked whom they want covered by specified documents, including a next of kin form authorizing control over their body and possessions in case of death.

This bill would require the Department of Corrections and Rehabilitation, during the intake process, to provide incarcerated persons with information explaining the department's zero-tolerance policy regarding sexual abuse and sexual harassment and how to report these incidents. The bill would require, within 30 days of intake and as otherwise specified, the department to provide comprehensive education to incarcerated persons regarding their rights to be free from sexual abuse and sexual harassment and to be free from retaliation for reporting these incidents.

(2) Existing law requires the department to institute specified practices to prevent sexual violence and promote inmate and ward safety. Existing law requires the department to implement thoughtful, confidential standards of physical and mental health care to reduce the impact of sexual abuse on inmates and wards, and requires the

performance of specified procedures in the investigation and prosecution of sexual abuse incidents that occur in department facilities.

This bill would require the department to take specified actions to ensure that incarcerated persons with disabilities, including those who are deaf or hard of hearing, who are visually impaired, or who have intellectual, psychiatric, or speech disabilities, and incarcerated persons who are limited English proficient have an equal opportunity to participate in and benefit from all aspects of the department's efforts to prevent, detect, and respond to sexual abuse and sexual harassment, including by providing access to effective interpreters, as specified. The bill would prohibit the department from utilizing incarcerated interpreters for the purposes described above, except in specified circumstances.

(3) Existing law requires the department to develop guidelines for allowing outside organizations and service agencies, including gay rights organizations and rape crisis agencies, to provide resources and counseling to inmates and wards.

This bill would, instead of gay rights organizations, require the department to develop the guidelines described above for two-spirit, lesbian, gay, bisexual, transgender, queer, and additional sexual orientations and gender identities rights organizations, and would additionally require the department to develop the guidelines described above for victim advocacy organizations and specified community service providers.

The bill would require the department to facilitate reasonable communication between incarcerated people and victim advocacy agencies and rape crisis organizations, and to provide contact information of those organizations to incarcerated people, as specified, for the purpose of obtaining emotional support services related to sexual abuse. The bill would require the department to enter into a memoranda of understanding with community-based service providers for confidential mental health and emotional support services related to sexual abuse and sexual harassment and would provide guidelines and requirements for those programs. The bill would require the department to provide prescribed information on those programs to the Legislature, on or before July 1, 2026, and annually thereafter.

~~Existing law requires the Department of Corrections and Rehabilitation to ensure that specified procedures are performed in the investigation and prosecution of sexual abuse incidents, including, among others, that an employee must be terminated if an investigation~~

~~confirms that the employee sexually abused an inmate. Existing law requires administrators to report criminal sexual abuse by staff to law enforcement authorities.~~

~~This bill would state the intent of the Legislature to enact legislation to address sexual assault against incarcerated persons in prison.~~

Vote: majority. Appropriation: no. Fiscal committee: ~~no~~ yes.

State-mandated local program: no.

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

1 SECTION 1. Section 2642 of the Penal Code is amended to
2 read:

3 2642. (a) The Department of Corrections and Rehabilitation
4 ~~shall.~~ ~~Develop~~ shall develop guidelines for allowing outside
5 organizations and service agencies to offer resources to inmates
6 and wards, including, but not limited to, the following:

7 (1) Rape crisis agencies.

8 (2) Hospitals.

9 (3) ~~Gay~~ ~~2SLGBTQ~~+ rights organizations.

10 (4) HIV/AIDS service providers.

11 (5) Civil rights organizations.

12 (6) Human rights organizations.

13 (7) Victim advocacy organizations.

14 (8) Nonprofit community service providers that provide services
15 related to supporting survivors of sexual abuse.

16 (b) For the purposes of this section, “2SLGBTQ+” means
17 two-spirit, lesbian, gay, bisexual, transgender, queer, and
18 additional sexual orientations and gender identities.

19 SEC. 2. Section 2642.1 is added to the Penal Code, to read:

20 2642.1. (a) (1) The Department of Corrections and
21 Rehabilitation shall facilitate reasonable communication between
22 incarcerated people and victim advocacy organizations and rape
23 crisis agencies for the purpose of obtaining emotional support
24 services related to sexual abuse.

25 (2) The department shall provide incarcerated people the
26 mailing address and telephone number, if available, of local, state,
27 and national victim advocacy organizations and rape crisis
28 agencies for the purpose of obtaining emotional support services
29 related to sexual abuse.

1 (3) *The communications described in this subdivision shall be*
2 *kept as confidential as possible.*

3 (4) *The department shall inform incarcerated people, prior to*
4 *giving those people access to the organizations and agencies*
5 *described in paragraph (1), of the extent to which communications*
6 *with those organizations and agencies will be monitored and the*
7 *extent to which reports of abuse disclosed during those*
8 *communications will be forwarded to authorities in accordance*
9 *with mandatory reporting laws.*

10 (b) (1) *The department shall attempt to enter into memoranda*
11 *of understanding or other agreements with nonprofit community*
12 *service providers for the provision of confidential emotional*
13 *support services related to sexual abuse to incarcerated people.*

14 (2) (A) *If the department enters into a memorandum of*
15 *understanding or other agreement with a community service*
16 *provider pursuant to paragraph (1), the department shall maintain*
17 *that memorandum of understanding or other agreement.*

18 (B) (i) *If a community service provider described in this*
19 *subdivision is no longer able to provide services as described in*
20 *this subdivision, the department may terminate the memorandum*
21 *of understanding or other agreement.*

22 (ii) *If the department terminates an agreement pursuant to*
23 *clause (i), the department shall attempt to enter into a*
24 *memorandum of understanding or other agreement with a different*
25 *community service provider for the same or similar services as*
26 *described in paragraph (1).*

27 (3) *The department shall maintain copies of agreements and*
28 *documentation showing any attempt to enter into an agreement*
29 *described in paragraph (1), including inquiries by community*
30 *service providers to the department about providing services to*
31 *incarcerated people.*

32 (4) *The department shall document the number of hours of*
33 *in-person services provided per month under each memorandum*
34 *of understanding or agreement described in this subdivision.*

35 (c) (1) *The department shall provide the documentation*
36 *described in paragraphs (3) and (4) of subdivision (b) to the*
37 *Legislature on or before July 1, 2026, and annually thereafter.*

38 (2) *A report submitted to the Legislature pursuant to this*
39 *subdivision shall be submitted in compliance with Section 9795*
40 *of the Government Code.*

1 *SEC. 3. Section 2642.2 is added to the Penal Code, to read:*

2 2642.2. (a) (1) *The Department of Corrections and*
3 *Rehabilitation shall annually contact community-based service*
4 *providers that provide confidential mental health and emotional*
5 *support services related to sexual abuse and sexual harassment*
6 *to incarcerated persons, and shall enter into a memorandum of*
7 *understanding with community-based service providers for the*
8 *provision of confidential mental health and emotional support*
9 *services related to sexual abuse and sexual harassment.*

10 (2) *The department shall ensure that any services provided to*
11 *incarcerated persons are available in person or virtually.*

12 (b) (1) *The department shall facilitate reasonable*
13 *communication between an incarcerated person and the*
14 *community-based service providers that have a memorandum of*
15 *understanding with the department.*

16 (2) *The department shall ensure incarcerated persons have a*
17 *list of all community-based service providers providing services*
18 *within the prison.*

19 (3) *Incarcerated persons shall have access, upon request, to*
20 *the services provided by the community-based service providers*
21 *regardless of security level, sentence length, or mental health*
22 *classification.*

23 (c) *If an incarcerated person is denied access to a service, the*
24 *incarcerated person shall be notified of the process for appealing*
25 *the decision, and the department shall document the reason or*
26 *reasons for the denial.*

27 (d) (1) *A community-based service provider may request to*
28 *enter the prison to deliver in-person services to an incarcerated*
29 *person. If the request is denied, the department shall provide the*
30 *reason for the denial in writing to the community-based service*
31 *provider and the incarcerated person within five days of receipt*
32 *of the request.*

33 (2) *The written denial shall address the safety or security*
34 *concerns for the incarcerated person, public, or staff.*

35 *SEC. 4. Section 2645 is added to the Penal Code, to read:*

36 2645. (a) (1) *The department shall take reasonable actions*
37 *to ensure that incarcerated persons with disabilities, including,*
38 *but not limited to, persons who are deaf or hard of hearing, persons*
39 *who are blind or have low vision, and persons who have*
40 *intellectual, psychiatric, or speech disabilities, have an equal*

1 opportunity to participate in and benefit from all aspects of the
2 department's efforts to prevent, detect, and respond to sexual abuse
3 and sexual harassment.

4 (2) Reasonable actions shall include, but are not limited to,
5 both of the following:

6 (A) Providing access to interpreters who can interpret
7 effectively, accurately, and impartially, both receptively and
8 expressively, using any necessary specialized vocabulary when
9 necessary to ensure effective communication with incarcerated
10 persons who are deaf or hard of hearing.

11 (B) Ensuring that written materials are provided in formats or
12 through methods that ensure effective communication with
13 incarcerated persons with disabilities, including incarcerated
14 persons who have intellectual disabilities, limited reading skills,
15 or who are blind or have low vision.

16 (b) The department shall take reasonable actions to ensure
17 meaningful access to all aspects of the department's efforts to
18 prevent, detect, and respond to sexual abuse and sexual harassment
19 to incarcerated persons who are limited English proficient,
20 including, but not limited to, providing interpreters who can
21 interpret effectively, accurately, and impartially, both receptively
22 and expressively, using any necessary specialized vocabulary.

23 (c) The department shall not utilize incarcerated interpreters,
24 incarcerated readers, or other types of incarcerated assistants
25 except in limited circumstances in which an extended delay in
26 obtaining an effective interpreter could compromise the
27 incarcerated person's safety, the provision of emergency medical
28 services, or the investigation of the incarcerated person's
29 allegations of sexual abuse or sexual harassment.

30 SEC. 5. Section 6401.1 is added to the Penal Code, to read:

31 6401.1. (a) During the intake process, incarcerated persons
32 shall receive information explaining the department's
33 zero-tolerance policy regarding sexual abuse and sexual
34 harassment and how to report incidents or suspicions of sexual
35 abuse or sexual harassment.

36 (b) (1) Within 30 days of intake, the department shall provide
37 comprehensive education to incarcerated persons, either in person
38 or through video, regarding their rights to be free from sexual
39 abuse and sexual harassment and to be free from retaliation for

1 *reporting these incidents, and regarding department policies and*
2 *procedures for responding to these incidents.*

3 *(2) Currently incarcerated persons who have not received the*
4 *comprehensive education shall be provided with the education*
5 *within one year of the effective date of this section.*

6 *(3) An incarcerated person shall receive the comprehensive*
7 *education upon transfer to a different facility to the extent that the*
8 *policies and procedures of the incarcerated person's new facility*
9 *differ from those of the previous facility.*

10 *(c) The department shall provide the comprehensive education*
11 *in formats accessible to all incarcerated persons, including, but*
12 *not limited to, those who have limited English proficiency or are*
13 *deaf, visually impaired, or otherwise disabled, as well as to*
14 *incarcerated persons who have limited reading skills.*

15 *(d) The department shall maintain documentation of*
16 *participation in these education sessions.*

17 *(e) In addition to providing the comprehensive education, the*
18 *department shall ensure that key information is continuously and*
19 *readily available or visible to incarcerated persons through*
20 *posters, handbooks, or other written formats.*

21 ~~SECTION 1. It is the intent of the Legislature to enact~~
22 ~~legislation to address sexual assault against incarcerated persons~~
23 ~~in prison.~~