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AB-464 Sexual assault in prison. (2025-2026)

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AMENDED IN ASSEMBLY MARCH 27, 2025

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CALIFORNIA LEGISLATURE— 2025–2026 REGULAR SESSION

ASSEMBLY BILL

NO. 464

Introduced by Assembly Member Aguiar-Curry
(Principal coauthors: Assembly Members Bonta, Krell, and Stefani)
(Coauthors: Assembly Members Bauer-Kahan, Bryan, and Kalra)
(Coauthor: Senator Menjivar)

February 06, 2025

An act to amend Section 352.1 of the Code of Civil Procedure, and to amend Section 2639 of, and to add Article 4 (commencing with Section 2646) to Chapter 3 of Title 1 of Part 3 of, the Penal Code, relating to prisons.

LEGISLATIVE COUNSEL'S DIGEST

AB 464, as amended, Aguiar-Curry. Sexual assault in prison.

(1) Existing law tolls the periods of limitation to bring specific civil actions for up to 2 years, if during that time that the claimant is imprisoned on a criminal charge, as specified. However, under existing law these tolling provisions do not apply to an action brought against a public entity or public employee, as specified.

This bill would, notwithstanding any other law, ~~require~~ *provide that the period for bringing* an action for sexual assault ~~brought~~ against a public entity or public employee ~~by a person who is that is alleged to have occurred while the claimant was~~ imprisoned on a criminal charge, or in execution under the sentence of a criminal court, ~~to be is~~ tolled during the entire period of ~~their the~~ *claimant's* imprisonment and 4 years after the *claimant's* release from ~~actual~~ custody. *Under the bill, any claim for sexual assault against a public entity or public employee subject to that provision is exempt from all state and local government claim presentation requirements.*

(2) Existing law establishes the Office of the Sexual Abuse in Detention Elimination Ombudsperson with the authority to inspect all of the Department of Corrections and Rehabilitation institutions and to interview all inmates and wards. Under existing law, if an investigation confirms that any employee of the department has sexually abused an inmate or ward, that employee is required to be terminated. Existing law prohibits retaliation against an inmate or ward for making an allegation of sexual abuse. Existing

law requires the department to keep statistics on the sexual abuse of inmates and wards and make that data available to the Office of the Sexual Abuse in Detention Elimination Ombudsperson.

This bill would prohibit an employee who has been terminated after an investigation confirms that the employee has sexually abused an incarcerated person or ward from future employment with the department.

This bill would require the department to monitor for 90 days an incarcerated person who reports sexual assault, and the incarcerated person reported to have suffered the sexual assault, by a staff member for possible retaliation. The bill would require the department to make specific notifications and reporting after an incarcerated person is reported to have suffered a sexual assault. The bill would prohibit an incarcerated person who is reported to have suffered a sexual assault at a department facility from being transferred to another facility without their written consent, unless their safety would be at risk. The bill would define terms for its purposes and declare these provisions are severable.

Vote: majority Appropriation: no Fiscal Committee: yes Local Program: no

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1. Section 352.1 of the Code of Civil Procedure is amended to read:

352.1. (a) If a person entitled to bring an action, mentioned in Chapter 3 (commencing with Section 335), is, at the time the cause of action accrued, imprisoned on a criminal charge, or in execution under the sentence of a criminal court for a term less than for life, the time of that disability is not a part of the time limited for the commencement of the action, not to exceed two years.

(b) Subdivision (a) does not apply to an action against a public entity or public employee upon a cause of action for which a claim is required to be presented in accordance with Chapter 1 (commencing with Section 900) or Chapter 2 (commencing with Section 910) of Part 3, or Chapter 3 (commencing with Section 950) of Part 4, of Division 3.6 of Title 1 of the Government Code. This subdivision shall not apply to any claim presented to a public entity prior to January 1, 1971.

(c) This section does not apply to an action, other than an action to recover damages or that portion of an action that is for the recovery of damages, relating to the conditions of confinement, including an action brought by that person pursuant to Section 1983 of Title 42 of the United States Code.

(d) *(1) Notwithstanding any other law, the period for bringing an action for sexual assault brought against a public entity or public employee by a person who is that is alleged to have occurred while the claimant was imprisoned on a criminal charge, or in execution under the sentence of a criminal court, shall be tolled during the period of the claimant's imprisonment and until or sentence and for a period of four years after the date of the claimant's release from actual custody.*

(2) Any claim for sexual assault against a public entity or public employee that is subject to the provisions of paragraph (1) is exempt from all state and local government claim presentation requirements.

SEC. 2. 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 incarcerated persons and wards cannot provide reliable information shall be discouraged.

(e) If an investigation confirms that any employee has sexually abused an incarcerated person or ward, that employee shall be terminated and shall be prohibited from future employment with the department. Administrators shall report criminal sexual abuse by staff to law enforcement authorities.

(f) Consensual sodomy and oral copulation among incarcerated persons 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 incarcerated persons and custodial sexual misconduct.

SEC. 3. Article 4 (commencing with Section 2646) is added to Chapter 3 of Title 1 of Part 3 of the Penal Code, to read:

Article 4. Prevent Sexual Assault and Retaliation in Prisons Act

2646. The following definitions shall apply to this article:

- (a) "Department" means the Department of Corrections and Rehabilitation.
- (b) "Immediate family member" means a spouse, domestic partner, parent, guardian, grandparent, aunt, uncle, brother, sister, child, or grandchild who is related by blood, marriage, or adoption.
- (c) "Incarcerated person" means any individual who is in the custody of the department.
- (d) "Staff member" means any employee or agent of the department, including, but not limited to, a correctional peace officer subject to Title 4.5 (commencing with Section 13600) of Part 4.
- (e) "Sexual assault" means any of the crimes described in Section 243.4, 261, 264.1, 286, 287, or 289, or former Section 288a, assault with the intent to commit any of those crimes, or an attempt to commit any of those crimes.

2646.2. (a) For 90 days following the date of a report of an allegation of sexual assault brought on behalf of an incarcerated person against a staff member, the department shall monitor the incarcerated person who is reported to have suffered the sexual assault, and if they are different, the person who made the report, for possible retaliation.

(b) The department shall report an allegation of sexual assault to the department's Office of Internal Affairs.

2646.4. (a) At the request of an incarcerated person who is reported to have suffered a sexual assault, the department shall, within 24 hours of the request, notify an immediate family member of the incarcerated person regarding the report of sexual assault.

(b) Unless requested by the incarcerated person not to do so, the department shall notify an immediate family member of the incarcerated person who is reported to have suffered a sexual assault within 48 hours regarding any update or progress on the investigation into the allegations of sexual assault.

(c) At the request of an incarcerated person who is reported to have suffered a sexual assault, the department shall, within 48 hours of the request, notify a rape crisis center, community-based organization, or an attorney, or any combination thereof, of the incarcerated person's choosing, regarding the report of sexual assault.

2646.6. (a) Notwithstanding any other law, an incarcerated person who is reported to have suffered a sexual assault by a staff member at a department facility shall not be transferred to another facility without their written consent.

(b) This section shall not apply if the safety of the incarcerated person would be at risk.

2646.8. The provisions of this article are severable. If any provision of this article or its application is held invalid, that invalidity shall not affect other provisions or applications that can be given effect without the invalid provision or application.