

AB 124 – Justice for Survivors

Senator Sydney Kamlager, District 30

IN BRIEF

AB 124: Justice for Survivors would support survivors of violence, including intimate partner violence, sexual violence, and human trafficking, by allowing the criminal justice system to consider the full context of a person's circumstances and experiences throughout the court process.

BACKGROUND & PROBLEM

According to the ACLU, nearly 60% of female state prisoners nationwide and as many as 94% of certain female prison populations experienced physical or sexual abuse before being incarcerated. Black women make up 25% of the incarcerated population in California, yet are only 5% of the adult population, demonstrating an overrepresentation of Black women in prison. Similar disparities exist for other individuals of color, including Latinx, Asian and Pacific Islander, and indigenous communities.

According to the American Academy of Pediatrics, transgender and gender non-conforming people are six times more likely to be sexually assaulted as children and have a greater risk of sexual violence across their lifetimes. Trans and non-binary survivors are vastly overrepresented in prisons. Less than 1% of California's population identifies as transgender, nonbinary, or intersex, yet make up 1% of the prison population.

Survivors of sexual violence, intimate partner violence, and other severe forms of trauma are more likely to land in the criminal justice system, yet California's current legal framework lacks clear mechanisms to consider relevant factors and experiences that contributed to the commission of the offense. The societal trauma caused by criminalizing these individuals spans generations as this often results in separating families and perpetuating cycles of abuse and trauma. Additionally, criminalizing victims and incarcerating them for long and harsh sentences imposes tremendous costs on the public.

AB 124 works to address the gaps and failures of the current legal system by allowing the court to consider how the defendant's own trauma contributed to the commission of the offense and/or conviction.

SOLUTION

AB 124 would create just outcomes moving forward, provide full context of the experiences that contributed to a survivor's actions or inactions, and use a more humanizing and trauma-informed response to criminal adjudication. This legislation will:

- Extend the existing affirmative defense statute, which currently applies to human trafficking survivors, to include survivors of intimate partner violence and sexual violence, and to all crimes except violent felonies;
- Require prosecutors to consider the impact of violence experienced by the survivor, whether the individual was a youth at the time of the commission of the offense, or whether the individual was a victim of intimate partner violence, sexual violence, or human trafficking during plea negotiations;
- Create a presumption that judges should start at the lower term when sentencing a survivor to prison if trauma, age, or victimization contributed to the commission of the offense, while maintaining a judge's discretion to order the middle or high term if the aggravating factors outweigh the mitigating factors;
- Encourage judges to consider whether the survivor's experience of trauma, intimate partner violence, sexual violence, and human trafficking was a contributing factor in the commission of the offense when evaluating a survivor's petition for resentencing; and
- Expand the vacatur law to allow survivors to petition the court to vacate convictions and expunge arrests for nonviolent offenses that were the direct result of being a victim of intimate partner violence or sexual violence.

SPONSORS

- Black Futures Lab Public Policy Institute
- California Coalition for Women Prisoners
- Dr. Beatriz María Solís Policy Institute (SPI) - Women's Foundation of California
- Free to Thrive
- Human Rights Watch
- National Center for Youth Law
- Survived & Punished
- USC School of Law Post Conviction Justice Project
- Young Women's Freedom Center

SUPPORTERS

- 3Strands Global Foundation
- Alliance for Children's Rights
- Alum Rock Counseling Center
- American Civil Liberties Union (ACLU) California Action
- Anti-Recidivism Coalition (ARC)
- Art of Yoga Project
- Asian Prisoner Support Committee
- Black to the Future Action Fund
- California Against Slavery
- California Alliance for Youth and Community Justice (CAYCJ)
- California Attorneys for Criminal Justice
- California Catholic Conference
- California Legislative Women's Caucus
- California Partnership to End Domestic Violence
- California Prison Focus
- California Public Defenders Association (CPDA)
- Californians for Safety and Justice
- Californians United for a Responsible Budget
- Center for Community Action and Environmental Justice
- Center for Justice and Reconciliation at Point Loma Nazarene University
- Ceres Policy Research
- Children's Advocacy Institute
- Children's Defense Fund California
- Children's Law Center of California
- Citizens for Choice
- Clergy and Laity United for Economic Justice
- Coleman Advocates for Children and Youth
- Communities United for Restorative Youth Justice (CURYJ)
- Community Against Sexual Harm (CASH)
- Community Legal Services in East Palo Alto
- Community Works
- ConXion to Community
- Crime Survivors for Safety and Justice
- Cure Violence Global
- Dignity and Power Now

- Ella Baker Center for Human Rights
- Empowering Pacific Islander Communities (EPIC)
- End Solitary Santa Cruz County
- Essie Justice Group
- Fair Chance Project
- Family Assistance Program
- Felony Murder Elimination Project
- Forever Found
- Fresno Barrios Unidos
- I-5 Freedom Network
- Initiate Justice
- John Burton Advocates for Youth (JBAY)
- Journey House Beyond Foster Care Program
- Journey Out
- Justice for Josiah
- JusticeLA
- Kern County Participatory Defense
- LA Best Babies Network
- Legal Services for Prisoners with Children
- Los Angeles Center for Law and Justice
- Los Angeles County Democratic Party
- Los Angeles LGBT Center
- Mental Health Advocacy Services
- Mirror Memoirs
- Monarch Services - Servicios Monarca
- NARAL Pro-Choice California
- National Association of Social Workers, California Chapter
- National Institute for Criminal Justice Reform
- North County Lifeline
- Office of Sexual Harassment and Assault Response and Prevention
- Palms Empowerment Women's Network
- Parenting for Liberation
- People's Pottery Project
- The Praxis Project
- Prison Activist Resource Center
- Prison Yoga Project
- Prisoner Advocacy Network
- Public Law Center
- Re:Store Justice
- Rights4Girls
- San Diego City Attorney's Office
- San Diego County Regional Human Trafficking & CSEC Advisory Council
- San Diego Public Defender
- San Diego Workforce Partnership, Inc.
- San Diego Youth Services
- San Francisco Public Defender
- Shared Hope International
- Showing Up for Racial Justice (SURJ) Bay Area
- Sister Warriors Freedom Coalition San Jose
- Somos Mayfair

- Sonoma County Black Coalition
- Starting Over, Inc.
- Time for Change Foundation
- Transformative in Person Workgroup
- Transgender Advocacy Group
- Treasures
- Uncommon Law
- Underground Grit
- The Unity Council
- Urban Strategies Council
- University of Southern California Unchained Scholars
- W. Haywood Burns Institute
- The Well Path
- Women's Foundation of California
- YWCA Glendale and Pasadena

FOR MORE INFORMATION

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