
SENATE COMMITTEE ON PUBLIC SAFETY

Senator Nancy Skinner, Chair

2017 - 2018 Regular

Bill No: AB 1418 **Hearing Date:** June 20, 2017
Author: O'Donnell
Version: March 28, 2017
Urgency: No **Fiscal:** Yes
Consultant: NG

Subject: *City Prosecutors*

HISTORY

Source: Long Beach City Prosecutor's Office

Prior Legislation: AB 356 (Horton) Chapter 127, Statutes of 2003
AB 154 (Cuneen) Chapter 363, Statutes of 1999

Support: California District Attorneys Association

Opposition: None known

Assembly Floor Vote: 69 - 0

PURPOSE

The purpose of this bill is to make technical changes in the Penal Code and Vehicle Code to clarify that city prosecutors have the same authority, privileges, and protections as prosecuting city attorneys.

Existing law authorizes the charter of any city to create the office of city prosecutor, or provides that a deputy city attorney shall act as city prosecutor, and whenever such prosecutor is charged with the duty of prosecuting misdemeanor offenses arising out of violations of state law, the city prosecutor may exercise the following powers and duties:

- The city prosecutor shall prosecute all such misdemeanors committed within the city, and handle all appeals arising from it. The city prosecutor shall draw complaints for such misdemeanors, and shall prosecute all recognizances or bail bond forfeitures arising from or resulting from the commission of such offenses.
- Whenever any person applying for a writ of habeas corpus is held in custody by any peace officer or such city, charged with having committed within the city any misdemeanor, a copy of the application for such writ shall be served upon such city prosecutor at the time and in the manner provided by law for the services of writs of habeas corpus upon district attorneys. The prosecutor shall conduct all proceedings relating to such application. (Gov. Code § 72193)

Existing law specifies that it is the duty of district attorneys and city attorneys, of any city the charter of which imposes the duty upon the city attorney, to prosecute all persons who maintain, permit, or allow a public nuisance to exist upon his or her property, or on property or

premises he or she is occupying or leasing, after they have received reasonable notice in writing from specified persons. (Pen. Code § 373, subd. (a).)

This bill would authorize a city prosecutor to prosecute a person for maintaining, permitting, or allowing a public nuisance to exist upon his or her property, or on property or premises he or she is occupying or leasing, after they have received reasonable notice in writing from specified persons, including city prosecutors.

Existing law authorizes a defendant to file a motion to disqualify a city attorney from performing an authorized duty involving a criminal matter and authorizes a city attorney to appeal an order recusing him or her from a proceeding. (Pen. Code § 1424, subd. (a) & (b).)

This bill would authorize a defendant to file a motion to disqualify a city prosecutor from performing an authorized duty involving a criminal matter and authorizes a city prosecutor to appeal an order recusing him or her from a proceeding.

Existing law requires the Attorney General to furnish state summary criminal history information to specified entities and persons, including city attorneys, if needed in the course of their duties. (Pen. Code § 11105, subd. (B)(b)(4).)

This bill would require the Attorney General to furnish state summary criminal history information, if needed in the course of their duties, to city prosecutors.

Existing law requires the Department of Motor Vehicles (DMV) to make information relating to specified convictions to be available to specified persons, including city attorneys, on a date five years on or after the date of the conviction. (Veh. Code § 1807.5, subd. (a) & (b)(5).)

This bill would require the DMV to make information relating to specified convictions to be available to city prosecutors on a date five years on or after the date of the conviction.

Existing law requires the home address that appears in DMV records of specified persons, including city attorneys, to be confidential if specified persons, including city attorneys, request the confidentiality of that information. (Veh. Code § 1808.4, subd. (a) & (a)(8).)

This bill would require the home address that appears in DMV records of city prosecutors to be confidential if a city prosecutor requests the confidentiality of that information.

Existing law allows specified persons, including city attorneys, for the purposes of prosecuting misdemeanors, to have access to specified records of the DMV. (Veh. Code § 1810.5)

This bill allows city prosecutors, for the purpose of prosecuting misdemeanors, to have access to specified records of the DMV.

This bill states that no reimbursement is required by this act.

COMMENTS

1. Need for This Bill

According to the author:

In most of California's 58 counties, the district attorney prosecutes both felony and misdemeanor cases. However, state law allows cities to prosecute misdemeanors on their own. Cities may use their city attorneys or city prosecutors provided they have called for that in their city charter or received consent from their county's district attorney.

In Los Angeles County, 10 cities have city attorneys or city prosecutors responsible for prosecuting misdemeanors, including the City of Los Angeles, whose city attorney handles both civil law and criminal prosecution. The Cities of Anaheim and San Diego also prosecute their own misdemeanors. However, these cities all have slightly different approaches to this arrangement. Some have separately elected city attorneys and city prosecutors, while in others, a single attorney will carry both titles, or one is subordinate to the other.

California law has several inconsistencies when it comes to statutes affecting city attorneys and city prosecutors. For example, while city attorneys who prosecute state law violations (e.g., driving under the influence of alcohol or drugs) get access to DMV records, the statute authorizing DMV access only explicitly refers to city attorneys who prosecute cases by consent of the district attorney, not city prosecutors. In fact, several sections of California law fail to specify city prosecutors when addressing city attorneys. This creates confusion for city prosecutors and the agencies they work with to prosecute misdemeanors.

2. What This Bill Does

California law currently allows cities, through their charter, to establish a city prosecutor for the purpose of prosecuting misdemeanors. Cities may establish the office of the city prosecutor in several ways, including as a shared responsibility of the city attorney, a deputy or subdivision of the city attorney's office, or as a separate entity entirely. While all of these options provide the same prosecutorial duties, California law does not consistently and specifically provide the same privileges for a city attorney operating as a prosecutor and a city prosecutor that operates independently. For example, city attorneys are explicitly mentioned in statutes concerning access to summaries of criminal history and protection of personal information, while city prosecutors are not.

This bill would remedy these inconsistencies by making technical changes throughout sections of the Penal and Vehicle codes by adding "city prosecutor" in code sections in which a city prosecutor is mentioned. With these additions, this bill clarifies that city prosecutors have the same authority, privileges, and protections as prosecuting city attorneys.

3. Argument in Support

According to the Long Beach Office of the City Prosecutor, who sponsors this bill:

For city prosecutors to effectively ensure public safety, our interactions with other government agencies must be efficient and timely. Confusion over the authority of our offices can lead to significant delay in conducting basic prosecutorial functions. AB 1418 eliminates this confusion and aligns California code with the realities of municipal prosecution.

- END -