
SENATE COMMITTEE ON PUBLIC SAFETY

Senator Nancy Skinner, Chair
2019 - 2020 Regular

Bill No: SB 259 **Hearing Date:** April 9, 2019
Author: Nielsen
Version: March 25, 2019
Urgency: No **Fiscal:** Yes
Consultant: JK

Subject: *Department of Justice: Crime Statistics Reporting*

HISTORY

Source: Author

Prior Legislation: SB 54 (De Leon), Ch. 495, Stats. 2017
AB 2524 (Irwin), Ch. 418, Stats. 2016
AB 953 (Weber), Ch. 466, Stats. 2015
SB 1075 (Runner & Anderson), 2016, failed in Assembly Appropriations
SB 314 (Alpert), Ch. 468, Stats. 2001

Support: Unknown

Opposition: None known

PURPOSE

The purpose of this bill is to require the Department of Justice to include disaggregated information on lewd or lascivious felonies in its annual statewide criminal statistics report.

Existing law generally requires the Department of Justice (DOJ) to publish an annual report containing statewide statistical information pertaining to crime, as specified. (Penal Code §§ 13010 *et seq.*)

Existing law states that a person who willfully and lewdly commits any lewd or lascivious act upon, or with the body, or any part or member, or a child who is under the age of 14 years, with the intent of arousing, appealing to, or gratifying the lust, passions, or sexual desires of that person or the child, is guilty of a lewd or lascivious act against a child. (Pen. Code § 288 (a).)

Existing law states that use of force, violence, duress, menace, or fear of immediate and unlawful bodily injury on the victim or another person, is guilty of a felony and shall be punished by imprisonment in the state prison for 5, 8, or 10 years. (Pen. Code § 288 (b).)

This bill requires DOJ to include statistics on lewd or lascivious felonies, commencing with the report that includes data from 2021.

This bill allows “lewd or lascivious felonies” to include those categories of felony offenses that are characterized as “lewd or lascivious” in other tables within the annual report.

COMMENTS

1. Need for This Bill

According to the author:

This bill addressed a conspicuous omission in California's primary annual report on crime (Crime in California). For reasons that appear to be historical, rather than policy-based, sex crimes that victimize children (lewd or lascivious offenses) are not subject to the same level of scrutiny as rape, or even vehicle theft.

Each year, California law enforcement agencies report the incidence of as many as one million crimes, which are reflected in the annual Crime in California report. This includes hundreds of thousands of larcenies, yet sex crimes against children, a vulnerable population, is not yet included. While the number of reported child molestations (lewd or lascivious offenses) is currently unknown, it is anticipated that it will be a small percentage of the number of reported under categories like vehicle theft or larceny, making it a reasonable act to include child molestations in this report.

Accurate information is necessary to effectively allocate resources and funding. SB 429 will give sex crimes against children (lewd or lascivious offenses) the same scrutiny as rape, robbery, and vehicle theft and provide policymakers and law enforcement with much needed data to address and combat this sensitive issue.

2. California DOJ annual report

California DOJ prepares an annual report entitled *Crime in California*. The report provides a broad overview of the criminal justice system in California. Crimes that the report highlights are homicide, rape, robbery, assault, burglary, motor vehicle theft, larceny-theft, value of stolen and recovered property, and arson.

California DOJ is currently in the process of switching over to the National Incident-Based Reporting System (NIBRS). According to the Uniform Crime Reporting Program:

NIBRS captures data on up to 10 offenses within each incident concerning 23 crime categories made up of 49 specific crimes called Group A offenses. In addition, law enforcement can report only arrest data for 10 Group B offense categories.¹

The purpose of NIBRS is to expand the types of data DOJ collects and to promote data analysis. California DOJ would have to define and collect data on lewd and lascivious felonies, while switching over to NIBRS. If they are confined to collecting data on lewd and lascivious felonies from 2021, they would be defining the term within the old system because NIBRS will have not been implemented at that point. Currently, NIBRS only categorizes arson, assault, bribery, burglary/breaking and entering, counterfeiting/forgery, destruction/damage/vandalism of property, drug/narcotics, embezzlement, extortion/blackmail, fraud, gambling, homicide, human trafficking, kidnapping/abduction, larceny/theft offenses, motor vehicle theft, pornography/obscene material, prostitution, robbery, sex offenses, sex offenses (non-forcible),

¹ <https://ucr.fbi.gov/nibrs/2013/resources/a-guide-to-understanding-nibrs/view>

stolen property, and weapon law violations.² Lewd and Lascivious felonies does not fall into any of these categories, meaning California DOJ will have to newly define the term within their system. Sex offenses only include rape, sodomy, sexual assault with an object, and fondling.

3. Lewd and Lascivious

In 2016, SB 1075 (Runner & Anderson) attempted to gather data on child molestation in DOJ crime statistics. However, child molestation is not a term defined in code. Therefore in this bill, the term “lewd and lascivious” is used, which refers to “the intent of arousing, appealing to, or gratifying the lust, passions, or sexual desires” of a minor under the age of fourteen. (Pen. Code § 288.)

4. Effect of this Legislation

This bill would require California DOJ to report the number of lewd and lascivious incidents. Currently California DOJ collects data on lewd and lascivious arrests but does not provide incident reports to compare. This bill would start collecting data in 2021 to allow locals to begin collecting this information. This bill provides that the number of lewd and lascivious felonies and the rate of offense per 100,000 California residents be reported in the same manner employed to report crimes of rape.

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² Ibid