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Attorney for Appellant  
**MAURICE WALKER**

IN THE SUPREME COURT OF THE STATE OF CALIFORNIA

**THE PEOPLE,**  
Plaintiff and Respondent,  
v.  
**MAURICE WALKER,**  
Defendant and Appellant.

No. S278309  
Court of Appeal  
No. B319961  
(Los Angeles  
County Superior  
Court No.  
BA398731)  
**REQUEST FOR  
JUDICIAL  
NOTICE**

Pursuant to California Rules of Court, rules 8.54 and 8.252, and Evidence Code sections 452 and 459, appellant Maurice Walker requests that this court take judicial notice of the following:

1. The comparison of the Senate's amendment to Senate Bill No. 81 (SB 81) from March 23, 2021, with the final version of SB 81;
2. The comparison of the Assembly's amendment to SB 81 from August 30, 2021, with the final version of SB 81;

3. The Senate Rules Committee, Office of Senate Floor Analyses, analysis of SB 81 as amended August 30, 2021, from September 8, 2021; and
4. Pages 2638-2639 of the September 10, 2021, issue of the Senate Daily Journal.

True and correct copies of these documents are attached as exhibits A, B, C, and D, respectively, to the declaration of Jason Szydlik.

This request for judicial notice is based on this notice, the memorandum of points and authorities, the declaration of Jason Szydlik, and exhibits A, B, C, and D to the declaration of Jason Szydlik.

Dated: June 16, 2023

Respectfully submitted,

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Jason Szydlik  
Attorney for appellant Maurice Walker

## MEMORANDUM OF POINTS AND AUTHORITIES

A reviewing court may take judicial notice of any matter identified in Evidence Code section 452. (Evid. Code, § 459, subd. (a).) Evidence Code section 452, subdivision (c) specifies that courts may take judicial notice of the official acts of the legislative departments of any state in the United States. The materials appellant asks this court to take judicial notice of are official acts of the California State Senate and Assembly. They are relevant to the question presented in this appeal, which is whether the Legislature intended to create a rebuttable presumption when it amended Penal Code section 1385, subdivision (c)(2).

Appellant respectfully requests that this court take judicial notice of the following:

1. The comparison of the Senate's amendment to SB 81 from March 23, 2021, with the final version of SB 81;
2. The comparison of the Assembly's amendment to SB 81 from August 30, 2021, with the final version of SB 81;
3. The Senate Rules Committee, Office of Senate Floor Analyses, analysis of SB 81 as amended August 30, 2021, from September 8, 2021; and
4. Pages 2638-2639 of the September 10, 2021, issue of the Senate Daily Journal.

Dated: June 16, 2023

Respectfully submitted,

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Jason Szydlik  
Attorney for appellant Maurice Walker

## DECLARATION OF JASON SZYDLIK

1. I am an attorney licensed to practice before the courts of the State of California. This court appointed me to represent appellant Maurice Walker in case number S278309.
2. The document attached to this declaration as exhibit A is a true and correct copy of the comparison of the Senate's amendment to SB 81 from March 23, 2021, with the final version of SB 81. I obtained it on June 16, 2023, from the following web address:  
[https://leginfo.legislature.ca.gov/faces/billVersionsCompareClient.xhtml?bill\\_id=202120220SB81&cversion=20210SB8197AMD](https://leginfo.legislature.ca.gov/faces/billVersionsCompareClient.xhtml?bill_id=202120220SB81&cversion=20210SB8197AMD).
3. The document attached to this declaration as exhibit B is a true and correct copy of the comparison of the Assembly's amendment to SB 81 from August 30, 2021, with the final version of SB 81. I obtained it on June 16, 2023, from the following web address:  
[https://leginfo.legislature.ca.gov/faces/billVersionsCompareClient.xhtml?bill\\_id=202120220SB81&cversion=20210SB8193AMD](https://leginfo.legislature.ca.gov/faces/billVersionsCompareClient.xhtml?bill_id=202120220SB81&cversion=20210SB8193AMD).
4. The document attached to this declaration as exhibit C is a true and correct copy of the Senate Rules Committee, Office of Senate Floor Analyses, analysis of SB 81 as amended August 30, 2021, from September 8, 2021. I obtained it on June 16, 2023, from the following web address:  
[https://leginfo.legislature.ca.gov/faces/billAnalysisClient.xhtml?bill\\_id=202120220SB81#](https://leginfo.legislature.ca.gov/faces/billAnalysisClient.xhtml?bill_id=202120220SB81#).

5. The document attached to this declaration as exhibit D is a true and correct copy of pages 2638-2639 of the September 10, 2021, issue of the Senate Daily Journal. I obtained it on June 16, 2023, from the following web address:  
<https://leginfo.legislature.ca.gov/faces/pubSenDailyJrn2.xhtml?type=doc&sessionyear=20212022&pagenum=2595&sessionnum=0>.

I declare under penalty of perjury that the foregoing is true and correct. Executed at San Francisco, California on June 16, 2023.

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Jason Szydlik  
Attorney for appellant Maurice Walker

# **EXHIBIT A**

# **EXHIBIT A**



**SB-81 Sentencing: dismissal of enhancements.** (2021-2022)

**Current Version:** 10/08/21 - Chaptered **Compared to Version:** 03/23/21 - Amended Senate  ⓘ

**SECTION 1.** Section 1385 of the Penal Code is amended to read:

**1385.** (a) The judge or magistrate may, either on motion of the court or upon the application of the prosecuting attorney, and in furtherance of justice, order an action to be dismissed. The reasons for the dismissal shall be stated orally on the record. The court shall also set forth the reasons in an order entered upon the minutes if requested by either party or in any case in which the proceedings are not being recorded electronically or reported by a court reporter. A dismissal shall not be made for any cause that would be ground of demurrer to the accusatory pleading.

(b) (1) If the court has the authority pursuant to subdivision (a) to strike or dismiss an enhancement, the court may instead strike the additional punishment for that enhancement in the furtherance of justice in compliance with subdivision (a).

(2) This subdivision does not authorize the court to strike the additional punishment for any enhancement that cannot be stricken or dismissed pursuant to subdivision (a).

(c) (1) ~~Except as specified in paragraph (4),~~ *Notwithstanding any other law,* the court shall dismiss an enhancement if it is in the furtherance of justice to do ~~so;~~ *so, except if dismissal of that enhancement is prohibited by any initiative statute.*

(2) ~~There shall be a presumption that it is in the furtherance of justice to dismiss an enhancement upon a finding.~~ *In exercising its discretion under this subdivision, the court shall consider and afford great weight to evidence offered by the defendant to prove* that any of the *mitigating* circumstances in subparagraphs (A) to (I), ~~inclusive, are true. This presumption shall only be overcome by a showing of clear and convincing evidence~~ *(I) are present. Proof of the presence of one or more of these circumstances weighs greatly in favor of dismissing the enhancement, unless the court finds* that dismissal of the enhancement would endanger public safety. *"Endanger public safety" means there is a likelihood that the dismissal of the enhancement would result in physical injury or other serious danger to others.*

(3) *While the court may exercise its discretion at sentencing, nothing in this subdivision shall prevent a court from exercising its discretion before, during, or after trial or entry of plea.*

(A) Application of the enhancement would result in a ~~disparate racial impact;~~ *discriminatory racial impact as described in paragraph (4) of subdivision (a) of Section 745.*

(B) Multiple enhancements are alleged in a single case. In this instance, all enhancements beyond a single enhancement shall be dismissed.

(C) The application of an enhancement could result in a sentence of over 20 years. In this instance, the enhancement shall be dismissed.

(D) The current offense is connected to mental ~~health issues;~~ *illness.*

(E) The current offense is connected to prior victimization or childhood trauma.

(F) The current offense is ~~nonviolent;~~ *not a violent felony as defined in subdivision (c) of Section 667.5.*

(G) The defendant was a juvenile when they committed the current offense or ~~prior offenses: any prior juvenile adjudication that triggers the enhancement or enhancements applied in this case.~~

(H) The enhancement is based on a prior conviction that is over five years old.

(I) Though a firearm was used in the current offense, it was inoperable or unloaded.

~~(3)~~ (4) The circumstances listed in paragraph (2) are not exclusive and the court maintains authority to dismiss or strike an enhancement in accordance with subdivision (a).

*(5) For the purposes of subparagraph (D) of paragraph (2), a mental illness is a mental disorder as identified in the most recent edition of the Diagnostic and Statistical Manual of Mental Disorders, including, but not limited to, bipolar disorder, schizophrenia, schizoaffective disorder, or post-traumatic stress disorder, but excluding antisocial personality disorder, borderline personality disorder, and pedophilia. A court may conclude that a defendant's mental illness was connected to the offense if, after reviewing any relevant and credible evidence, including, but not limited to, police reports, preliminary hearing transcripts, witness statements, statements by the defendant's mental health treatment provider, medical records, records or reports by qualified medical experts, or evidence that the defendant displayed symptoms consistent with the relevant mental disorder at or near the time of the offense, the court concludes that the defendant's mental illness substantially contributed to the defendant's involvement in the commission of the offense.*

*(6) For the purposes of this subdivision, the following terms have the following meanings:*

*(A) "Childhood trauma" means that as a minor the person experienced physical, emotional, or sexual abuse, physical or emotional neglect. A court may conclude that a defendant's childhood trauma was connected to the offense if, after reviewing any relevant and credible evidence, including, but not limited to, police reports, preliminary hearing transcripts, witness statements, medical records, or records or reports by qualified medical experts, the court concludes that the defendant's childhood trauma substantially contributed to the defendant's involvement in the commission of the offense.*

*(B) "Prior victimization" means the person was a victim of intimate partner violence, sexual violence, or human trafficking, or the person has experienced psychological or physical trauma, including, but not limited to, abuse, neglect, exploitation, or sexual violence. A court may conclude that a defendant's prior victimization was connected to the offense if, after reviewing any relevant and credible evidence, including, but not limited to, police reports, preliminary hearing transcripts, witness statements, medical records, or records or reports by qualified medical experts, the court concludes that the defendant's prior victimization substantially contributed to the defendant's involvement in the commission of the offense.*

~~(4)~~ (7) This subdivision ~~does not apply to an enhancement if dismissal of that enhancement is prohibited by any initiative statute.~~ shall apply to sentencings occurring after the effective date of the act that added this subdivision.



# **EXHIBIT B**

# **EXHIBIT B**



## SB-81 Sentencing: dismissal of enhancements. (2021-2022)

**Current Version:** 10/08/21 - Chaptered **Compared to Version:**   ⓘ

**SECTION 1.** Section 1385 of the Penal Code is amended to read:

**1385.** (a) The judge or magistrate may, either on motion of the court or upon the application of the prosecuting attorney, and in furtherance of justice, order an action to be dismissed. The reasons for the dismissal shall be stated orally on the record. The court shall also set forth the reasons in an order entered upon the minutes if requested by either party or in any case in which the proceedings are not being recorded electronically or reported by a court reporter. A dismissal shall not be made for any cause that would be ground of demurrer to the accusatory pleading.

(b) (1) If the court has the authority pursuant to subdivision (a) to strike or dismiss an enhancement, the court may instead strike the additional punishment for that enhancement in the furtherance of justice in compliance with subdivision (a).

(2) This subdivision does not authorize the court to strike the additional punishment for any enhancement that cannot be stricken or dismissed pursuant to subdivision (a).

(c) (1) Notwithstanding any other law, the court shall dismiss an enhancement if it is in the furtherance of justice to do so, except if dismissal of that enhancement is prohibited by any initiative statute.

(2) In exercising its discretion under this subdivision, the court shall consider and afford great weight to evidence offered by the defendant to prove that any of the mitigating circumstances in subparagraphs (A) to (I) are present. Proof of the presence of one or more of these circumstances weighs greatly in favor of dismissing the enhancement, unless the court finds that dismissal of the enhancement would endanger public safety. "Endanger public safety" means there is a likelihood that the dismissal of the enhancement would result in physical injury or other serious danger to others.

(3) While the court may exercise its discretion at sentencing, nothing in this subdivision shall prevent a court from exercising its discretion before, during, or after trial or entry of plea.

(A) Application of the enhancement would result in a discriminatory racial impact as described in paragraph (4) of subdivision (a) of Section 745.

(B) Multiple enhancements are alleged in a single case. In this instance, all enhancements beyond a single enhancement shall be dismissed.

(C) The application of an enhancement could result in a sentence of over 20 years. In this instance, the enhancement shall be dismissed.

(D) The current offense is connected to mental illness.

(E) The current offense is connected to prior victimization or childhood trauma.

(F) The current offense is not a violent felony as defined in subdivision (c) of Section 667.5.

(G) The defendant was a juvenile when they committed the current offense or any prior juvenile adjudication that triggers the enhancement or enhancements applied in this case.

(H) The enhancement is based on a prior conviction that is over five years old.

(1) Though a firearm was used in the current offense, it was inoperable or unloaded.

(4) The circumstances listed in paragraph (2) are not exclusive and the court maintains authority to dismiss or strike an enhancement in accordance with subdivision (a).

(5) For the purposes of subparagraph (D) of paragraph (2), a mental illness is a mental disorder as identified in the most recent edition of the Diagnostic and Statistical Manual of Mental Disorders, including, but not limited to, bipolar disorder, schizophrenia, schizoaffective disorder, or post-traumatic stress disorder, but excluding antisocial personality disorder, borderline personality disorder, and pedophilia. A court may conclude that a defendant's mental illness was connected to the offense if, after reviewing any relevant and credible evidence, including, but not limited to, police reports, preliminary hearing transcripts, witness statements, statements by the defendant's mental health treatment provider, medical records, records or reports by qualified medical experts, or evidence that the defendant displayed symptoms consistent with the relevant mental disorder at or near the time of the offense, the court concludes that the defendant's mental illness substantially contributed to the defendant's involvement in the commission of the offense.

(6) For the purposes of this subdivision, the following terms have the following meanings:

(A) "Childhood trauma" means that as a minor the person experienced physical, emotional, or sexual abuse, physical or emotional neglect. A court may conclude that a defendant's childhood trauma was connected to the offense if, after reviewing any relevant and credible evidence, including, but not limited to, police reports, preliminary hearing transcripts, witness statements, medical records, or records or reports by qualified medical experts, the court concludes that the defendant's childhood trauma substantially contributed to the defendant's involvement in the commission of the offense.

(B) "Prior victimization" means the person was a victim of intimate partner violence, sexual violence, or human trafficking, or the person has experienced psychological or physical trauma, including, but not limited to, abuse, neglect, exploitation, or sexual violence. A court may conclude that a defendant's prior victimization was connected to the offense if, after reviewing any relevant and credible evidence, including, but not limited to, police reports, preliminary hearing transcripts, witness statements, medical records, or records or reports by qualified medical experts, the court concludes that the defendant's prior victimization substantially contributed to the defendant's involvement in the commission of the offense.

(7) This subdivision shall apply to sentencings occurring after the effective date of the act that added this subdivision.

# **EXHIBIT C**

# **EXHIBIT C**

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UNFINISHED BUSINESS

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Bill No: SB 81  
Author: Skinner (D), et al.  
Amended: 8/30/21  
Vote: 21

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SENATE PUBLIC SAFETY COMMITTEE: 4-0, 3/16/21  
AYES: Bradford, Kamlager, Skinner, Wiener  
NO VOTE RECORDED: Ochoa Bogh

SENATE APPROPRIATIONS COMMITTEE: 5-2, 5/20/21  
AYES: Portantino, Bradford, Kamlager, Laird, Wieckowski  
NOES: Bates, Jones

SENATE FLOOR: 27-9, 5/26/21  
AYES: Allen, Archuleta, Atkins, Becker, Bradford, Cortese, Dodd, Durazo,  
Eggman, Gonzalez, Hertzberg, Hueso, Kamlager, Laird, Leyva, Limón,  
McGuire, Min, Newman, Pan, Portantino, Roth, Rubio, Skinner, Stern,  
Wieckowski, Wiener  
NOES: Bates, Borgeas, Dahle, Grove, Jones, Melendez, Nielsen, Ochoa Bogh,  
Wilk  
NO VOTE RECORDED: Caballero, Glazer, Hurtado, Umberg

ASSEMBLY FLOOR: 46-24, 9/8/21 - See last page for vote

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**SUBJECT:** Sentencing: dismissal of enhancements

**SOURCE:** California Attorneys for Criminal Justice  
Californians for Safety and Justice

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**DIGEST:** This bill provides guidance to courts by specifying circumstances for a court to consider when determining whether to apply an enhancement.

*Assembly Amendments:*

- 1) Remove the presumption that it is in the interests of justice to dismiss an enhancement when specified circumstances are found to be true and instead provides that the court shall, in exercising its discretion to dismiss an enhancement in the interests of justice, consider and afford great weight to evidence of those specified circumstances.
- 2) Clarify and add definitions for the specified circumstances.
- 3) Apply this bill's provisions to sentencings occurring after the effective date of this bill.

**ANALYSIS:**

Existing law:

- 1) Authorizes a court, either on its own motion or upon the application of the prosecuting attorney, to dismiss an action in the furtherance of justice. The reasons for the dismissal shall be stated orally on the record and those reasons shall be set forth in an order entered upon the minutes if requested by either party or in any case in which the proceedings are not being recorded electronically or reported by a court reporter. A dismissal shall not be made for any cause that would be ground of demurrer to the accusatory pleading. (Pen. Code, § 1385, subd. (a).)
- 2) States that if the court has the authority to strike or dismiss an enhancement, the court may instead strike the additional punishment for that enhancement in the furtherance of justice. (Pen. Code, § 1385, subd. (b).)
- 3) Provides that the above provisions do not authorize the court to strike the additional punishment for any enhancement that cannot be stricken or dismissed. (Pen. Code, §1385, subd. (b)(2).)

This bill:

- 1) States that the court shall, in exercising its discretion to dismiss an enhancement in the interests of justice, consider and afford great weight to evidence offered by the defendant to prove that any of the specified mitigating circumstances are present.

- 2) Provides that the presence of one or more of the following circumstances weighs greatly in favor of dismissing the enhancement, unless the court finds that dismissal of the enhancement would endanger public safety:
  - a) Application of the enhancement would result in a discriminatory racial impact as described in the California Racial Justice Act of 2020.
  - b) Multiple enhancements are alleged in a single case. In this instance, all enhancements beyond a single enhancement shall be dismissed.
  - c) The application of an enhancement could result in a sentence of over 20 years. In this instance, the enhancement shall be dismissed.
  - d) The current offense is connected to mental illness.
  - e) The current offense is connected to prior victimization or childhood trauma.
  - f) The current offense is not a violent felony as defined in subdivision (c) of Section 667.5.
  - g) The defendant was a juvenile when they committed the current offense or any prior juvenile adjudication that triggers the enhancement or enhancements applied in this case.
  - h) The enhancement is based on a prior conviction that is over five years old.
  - i) Though a firearm was used in the current offense, it was inoperable or unloaded.
- 3) Clarifies that the above list is not exhaustive and that the court maintains authority to dismiss or strike an enhancement in the interests of justice.
- 4) Defines “endanger public safety” to mean there is a likelihood that the dismissal of the enhancement would result in physical injury or other serious danger to others.
- 5) States that while the court may exercise its discretion at sentencing, nothing in the bill shall prevent a court from exercising its discretion before, during, or after trial or entry of plea.
- 6) Provides that the following definitions apply:
  - a) A mental illness is a mental disorder as identified in the most recent edition of the Diagnostic and Statistical Manual of Mental Disorders, including, but

not limited to, bipolar disorder, schizophrenia, schizoaffective disorder, or post-traumatic stress disorder, but excluding antisocial personality disorder, borderline personality disorder, and pedophilia. A court may conclude that a defendant's mental illness was connected to the offense if, after reviewing any relevant and credible evidence, including, but not limited to, police reports, preliminary hearing transcripts, witness statements, statements by the defendant's mental health treatment provider, medical records, records or reports by qualified medical experts, or evidence that the defendant displayed symptoms consistent with the relevant mental disorder at or near the time of the offense, the court concludes that the defendant's mental illness substantially contributed to the defendant's involvement in the commission of the offense.

- b) "Childhood trauma" means that as a minor the person experienced physical, emotional, or sexual abuse, physical or emotional neglect. A court may conclude that a defendant's childhood trauma was connected to the offense if, after reviewing any relevant and credible evidence, including, but not limited to, police reports, preliminary hearing transcripts, witness statements, medical records, or records or reports by qualified medical experts, the court concludes that the defendant's childhood trauma substantially contributed to the defendant's involvement in the commission of the offense.
  - c) "Prior victimization" means the person was a victim of intimate partner violence, sexual violence, or human trafficking, or the person has experienced psychological or physical trauma, including, but not limited to, abuse, neglect, exploitation, or sexual violence. A court may conclude that a defendant's prior victimization was connected to the offense if, after reviewing any relevant and credible evidence, including, but not limited to, police reports, preliminary hearing transcripts, witness statements, medical records, or records or reports by qualified medical experts, the court concludes that the defendant's prior victimization substantially contributed to the defendant's involvement in the commission of the offense.
- 7) Specifies that this bill's provisions do not apply to an enhancement if dismissal of that enhancement is prohibited by any initiative statute.
  - 8) States that this bill's provisions apply to sentencings occurring after the effective date of this bill.



## Background

According to the author:

California's penal code has over 150 sentence enhancements that can be added to a criminal charge. Sentence enhancements are not elements of the crime, they are additional circumstances that increase the penalty, or time served, of the underlying crime. While the application of an enhancement may appear straightforward, research reviewed last year by the Committee on the Revision of the Penal Code revealed inconsistency in their use.

Current law has a standard for dismissing sentence enhancements that lacks clarity and does not provide judges clear guidance on how to exercise this discretion. A ruling by the California Supreme Court noted that the law governing when judges should impose or dismiss enhancements remains an 'amorphous concept,' with discretion inconsistently exercised and underused because judges did not have adequate guidance.

Building on the California Rules of Court that guide judges in certain sentencing decisions, SB 81 aims to provide clear guidance on how and when judges may dismiss sentencing enhancements and other allegations that would lengthen a defendant's sentence. By clarifying the parameters a judge must follow, SB 81 codifies a recommendation developed with the input of the judges who serve on the Committee on the Revision of the Penal Code for the purpose of improving fairness in sentencing while retaining a judge's authority to apply an enhancement to protect public safety.

**FISCAL EFFECT:** Appropriation: No Fiscal Com.: Yes Local: No

According to the Assembly Appropriations Committee, cost pressures (Trial Court Trust Fund) possibly in the mid- to-upper hundreds of thousands of dollars to the trial courts to consider whether mitigating circumstances are present to support dismissing an enhancement. Courts are not funded on the basis of workload, however, increased pressure on the Trial Court Trust Fund and staff workload may create a need for increased funding for courts from the General Fund to perform existing duties.

**SUPPORT:** (Verified 9/8/21)

California Attorneys for Criminal Justice (co-source)  
Californians for Safety and Justice (co-source)  
A New Way of Life Reentry Project  
American Civil Liberties Union of California

Asian Solidarity Collective  
Bend the Arc: Jewish Action  
California Catholic Conference  
California Public Defenders Association  
California Religious Action Center of Reform Judaism  
Communities United for Restorative Youth Justice  
Community Advocates for Just and Moral Governance  
Community Reflections Inc.  
Democrats of Rossmoor  
Drug Policy Alliance  
Ella Baker Center for Human Rights  
Fresno Barrios Unidos  
Friends Committee on Legislation of California  
Initiate Justice  
Legal Services for Prisoners with Children  
Pillars of the Community  
Prosecutors Alliance of California  
Re:store Justice  
Rubicon Programs  
San Francisco Public Defender  
Showing Up for Racial Justice - Bay Area  
Showing Up for Racial Justice - North County  
Showing Up for Racial Justice - San Diego  
Smart Justice California  
Team Justice  
Think Dignity  
Time for Change Foundation  
We the People – San Diego

**OPPOSITION:** (Verified 9/8/21)

California Narcotic Officers' Association  
California Police Chiefs Association  
California State Sheriffs' Association  
Monterey County District Attorney's Office

ASSEMBLY FLOOR: 46-24, 9/8/21

AYES: Aguiar-Curry, Bauer-Kahan, Bennett, Berman, Bloom, Mia Bonta, Bryan, Burke, Calderon, Carrillo, Chau, Chiu, Daly, Friedman, Gabriel, Cristina Garcia, Eduardo Garcia, Gipson, Lorena Gonzalez, Grayson, Holden, Irwin, Jones-

Sawyer, Kalra, Lee, Levine, Low, Mayes, McCarty, Medina, Mullin, Nazarian, Petrie-Norris, Quirk, Reyes, Luz Rivas, Robert Rivas, Blanca Rubio, Santiago, Stone, Ting, Ward, Akilah Weber, Wicks, Wood, Rendon

NOES: Bigelow, Chen, Choi, Cooley, Cooper, Cunningham, Megan Dahle, Davies, Flora, Fong, Frazier, Gallagher, Gray, Kiley, Lackey, Mathis, Nguyen, Patterson, Rodriguez, Seyarto, Smith, Valladares, Voepel, Waldron

NO VOTE RECORDED: Arambula, Boerner Horvath, Cervantes, Maienschein, Muratsuchi, O'Donnell, Quirk-Silva, Ramos, Salas, Villapudua

Prepared by: Stella Choe / PUB. S. /  
9/8/21 21:52:15

\*\*\*\* END \*\*\*\*

# **EXHIBIT D**

# **EXHIBIT D**

**Roll Call**

The roll was called and the Senate concurred in Assembly amendments by the following vote:

AYES (31)—Senators Allen, Archuleta, Atkins, Bates, Becker, Bradford, Caballero, Cortese, Dahle, Dodd, Durazo, Glazer, Grove, Hertzberg, Hueso, Kamlager, Laird, Limón, McGuire, Min, Newman, Nielsen, Ochoa Bogh, Pan, Portantino, Rubio, Skinner, Umberg, Wieckowski, Wiener, and Wilk.

NOES (4)—Senators Borgeas, Jones, Leyva, and Melendez.

Above bill ordered enrolled.

**MOTIONS, RESOLUTIONS AND NOTICES****MOTION TO WITHDRAW FROM ENROLLMENT**

Senator Wiener moved that **SB 357** be withdrawn from Engrossing and Enrolling and ordered held at Desk.

Motion carried.

**MOTION TO REFER MEASURES TO INACTIVE FILE**

Senator Hertzberg moved that **AB 1102**, **AB 364**, and **AB 965** be ordered to the inactive file.

Motion carried.

**UNANIMOUS CONSENT TO PRINT IN JOURNAL**

Senator Skinner asked for, and was granted, unanimous consent that the following letters be printed in the Journal:

September 10, 2021

*Ms. Erika Contreras*

*Secretary of the Senate*

Dear Madam Secretary: As the Senate author of SB 81, I respectfully request the following letter be printed in the Senate Daily Journal expressing our intent with respect to this measure:

As the author of Senate Bill (SB) 81, I wish to provide some clarity on my intent regarding two provisions of the bill.

First, amendments taken on August 30, 2021 remove the presumption that a judge must rule to dismiss a sentence enhancement if certain circumstances are present, and instead replaces that presumption with a “great weight” standard where these circumstances are present. The retention of the word “shall” in Penal Code §1385(c)(3)(B) and (C) should not be read as a retention of the previous presumption language—the judge’s discretion is preserved in Penal Code §1385(c)(2).

Second, I wish to clarify that in establishing the “great weight” standard in SB 81 for imposition or dismissal of enhancements [Penal Code §1385(c)(2)] it was my intent that this great weight standard be consistent with the case law in California Supreme Court in *People v. Martin*, 42 Cal.3d 437 (1986).

Thank you for this opportunity to clarify the intent of SB 81.

Sincerely,  
NANCY SKINNER  
Senator, 9th District

September 10, 2021

*Ms. Erika Contreras*  
*Secretary of the Senate*

Dear Madam Secretary: As the Senate author of SB 524, I respectfully request the following letter be printed in the Senate Daily Journal expressing the intent with respect to this measure:

Senate Bill 524 defines “Patient steering” as follows:

(1) Communicating to an enrollee, verbally, electronically or in writing, that the enrollee is required to have a prescription dispensed at, or pharmacy services provided by, a particular pharmacy or pharmacies if there are other pharmacies in the network that have the ability to dispense the medication or provide the services.

This letter is intended to make clear that the term “network,” as used in the bill, means a pharmacy that has an existing contract with the health care service plan, health insurer or pharmacy benefit manager that places that pharmacy in the network of pharmacy providers authorized to provide services to the plans’, insurers’ of pharmacy benefit managers’ enrollees or insureds.

Thank you for this opportunity to clarify the intent of SB 524.

Sincerely,  
NANCY SKINNER  
Senator, 9th District



**PROOF OF SERVICE**

I am a resident of the State of California, over the age of eighteen years, and not a party to this appeal. My business address is 5758 Geary Blvd., #246; San Francisco, California 94121. I served the attached **REQUEST FOR JUDICIAL NOTICE** on the date shown below by enclosing it in envelopes addressed to the following persons and depositing the sealed envelopes with the United States Postal Service in San Francisco, California with the postage fully prepaid.

Clerk of Court  
Superior Court of California, County of Los Angeles  
210 West Temple Street  
Los Angeles, CA 90012

Los Angeles County District Attorney  
211 West Temple Street, Ste. 1200  
Los Angeles, CA 90012

Maurice Walker

I electronically served the attached **REQUEST FOR JUDICIAL NOTICE** to the following parties on the date below via truefiling.com.

California Court of Appeal  
Second Appellate District  
300 S. Spring Street  
2<sup>nd</sup> Floor, North Tower  
Los Angeles, CA 90013

Office of the Attorney General  
300 South Spring Street  
Los Angeles, CA 90013-1230

I electronically served the attached **REQUEST FOR JUDICIAL NOTICE** to the following parties on the date below via email at capdocs@lacap.com.

California Appellate Project Los Angeles  
520 S. Grand Ave., 4<sup>th</sup> Floor  
Los Angeles, CA 90071

I declare under penalty of perjury that the foregoing is true and correct. Executed at San Francisco, California on June 16, 2023.

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Jason Szydlak

STATE OF CALIFORNIA  
Supreme Court of California

**PROOF OF SERVICE**

STATE OF CALIFORNIA  
Supreme Court of California

Case Name: **PEOPLE v. WALKER**  
Case Number: **S278309**  
Lower Court Case Number: **B319961**

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Date

/s/Jason Szydlik

Signature

Szydlik, Jason (238356)

Last Name, First Name (PNum)

Law Offices of Jason Szydlik

Law Firm