

Date of Hearing: April 22, 2025

Chief Counsel: Andrew Ironside

**ASSEMBLY COMMITTEE ON PUBLIC SAFETY**

Nick Schultz, Chair

AB 1087 (Patterson) – As Introduced February 20, 2025

**As Proposed to be Amended in Committee**

**SUMMARY:** Provides for a period of probation of between three and five years for vehicular manslaughter while intoxicated and gross vehicular manslaughter while intoxicated.

**EXISTING LAW:**

- 1) Provides that gross vehicular manslaughter while intoxicated is the unlawful killing of a human being without malice aforethought, in the driving of a vehicle, where the driving was under the influence of alcohol or drugs, as specified, with gross negligence. (Pen. Code, § 191.5, subd. (a).)
- 2) Provides that gross vehicular manslaughter while intoxicated as a felony, punishable by imprisonment in the state prison for 4, 6, or 10 years. (Pen. Code, § 191.5, subd. (c)(1).)
- 3) Provides that a person convicted of gross vehicular manslaughter while intoxicated, who has one or more prior specified convictions, shall be punished with a felony by imprisonment in the state prison for a term of 15 years to life. (Pen. Code, § 191.5, subd. (d).)
- 4) Provides that vehicular manslaughter while intoxicated is the unlawful killing of a human being without malice aforethought, in the driving of a vehicle, where the driving was under the influence of alcohol or drugs, as specified, but without gross negligence. (Pen. Code, § 191.5, subd. (b).)
- 5) Provides that vehicular manslaughter while intoxicated is punishable as a misdemeanor by imprisonment in a county jail for not more than one year or as a felony by imprisonment in the county jail for 16 months or two or four years. (Pen. Code, § 191.5, subd. (c)(2).)
- 6) Requires, if any person is convicted of driving under the influence, as specified, and is granted probation, the period of probation to be for a term as follows:
  - a) For a period of between three and five years; or,
  - b) If the maximum sentence for the offense exceeds five years, for a period of probation for a longer period than three years but not exceeding the maximum time for which sentence imprisonment may be pronounced. (Veh. Code, § 23600, subd. (b)(1).)

**FISCAL EFFECT:** Unknown

**COMMENTS:**

- 1) **Author's Statement:** According to the author, “California law has a major disparity in how the criminal justice system grants probation to those who drive under the influence that results in an injury or death of another person. If you take the life of someone while driving under the influence, you shouldn’t be on probation for less time than a person who didn’t. By aligning the terms of probation, we can ensure the person who took a life can receive much needed services from our probation officers while being responsibly monitored to ensure they don’t recidivate.”
- 2) **Effect of this Bill:** Probation is the suspension of a custodial sentence and a conditional release of a defendant into the community. Probation can be “formal” or “informal.” “Formal” probation is under the direction and supervision of a probation officer. As a general proposition, the level of probation supervision will be linked to the level of risk the probationer presents to the community.

Defendants convicted of misdemeanors, and most felonies, are eligible for probation based on the discretion of the court. When considering the imposition of probation, the court evaluates the safety of the public, the nature of the offense, the interests of justice, the loss to the victim, and the needs of the defendant. (Pen. Code, § 1202.7.) The court also has broad discretion to impose conditions that foster the defendant’s rehabilitation and protect public safety. (*People v. Carbajal* (1995) 10 Cal.4th 1114, 1120.) A valid condition must be reasonably related to the offense and aimed at deterring misconduct in the future. (*Id.* at 1121.)

Prior to 2021, when a defendant was convicted of a felony, the court could impose a term of probation for up to five years, or no longer than the prison term that can be imposed if the maximum prison term exceeds five years. (Pen. Code, § 1203.1.) In misdemeanor cases, the court could impose a term of probation for up to three years, or no longer than the maximum term of imprisonment if more than three years. (Pen. Code, § 1203a.) AB 1950 (Kamlager), Chapter 328, Statutes of 2020, limited probation to two years for a felony and one year for a misdemeanor, except where “an offense that includes specific probation lengths within its provisions.” (Pen. Code, § 1203.1, subd. (l)(1).)

Existing law provides for a period of between three and five years of probation for any person convicted of driving under the influence. (Veh. Code, § 23600, subd. (b)(1).) However, if the maximum sentence for the offense exceeds five years, for a period of probation may be for a longer period than three years but may not exceed the maximum time for which sentence imprisonment may be pronounced. (*Ibid.*) DUI is a lesser included offense of both vehicular manslaughter and gross vehicular manslaughter. However, there is no specified probation term for the latter crimes. As such, despite being more serious crimes than DUI, the maximum term of probation for both vehicular manslaughter and gross vehicular manslaughter is two years. (See *Bowden v. Superior Court* (2022) 82 Cal.App.5th 735, 745.)

This bill would increase the period of probation for vehicular manslaughter while intoxicated and gross vehicular manslaughter while intoxicated from a term of two years to three to five

years.

- 3) **Vehicular Manslaughter While Intoxicated And Gross Vehicular Manslaughter While Intoxicated:** The difference between vehicular manslaughter while intoxicated and gross vehicular manslaughter while intoxicated is the degree of negligence required. Vehicular manslaughter while intoxicated is a lesser crime than gross vehicular manslaughter while intoxicated. Vehicular manslaughter while intoxicated only requires ordinary negligence, which is the failure to use reasonable care to prevent reasonably foreseeable harm to oneself or someone else. A person is negligent if they do something that a reasonably careful person would not do in the same situation. On the other hand, gross vehicular manslaughter while intoxicated requires a person to act in a reckless way that creates a high risk of death or great bodily injury. In other words, a person acts with gross negligence when they disregard human life. (Compare CALCRIM NO. 590 [Gross Vehicular Manslaughter While Intoxicated] with CALCRIM No. 591 [Vehicular Manslaughter While Intoxicated].)

To prove that the defendant is guilty of vehicular manslaughter while intoxicated, the prosecution must show:

1. The defendant drove under the influence of drugs and/or alcohol;
2. While driving under the influence the defendant also committed an act that might cause death;
3. The defendant committed the act that might cause death with ordinary negligence; and,
4. The defendant's negligent conduct caused the death of another person. (CALCRIM No. 591.)

To prove that the defendant is guilty of gross vehicular manslaughter while intoxicated, the prosecution must show:

1. The defendant drove under the influence of drugs and/or alcohol;
2. While driving under the influence the defendant also committed an act that might cause death;
3. The defendant committed the act that might cause death with gross negligence; and,
4. The defendant's grossly negligent conduct caused the death of another person. (CALCRIM No. 590.)

- 4) **Argument in Support:** According to *Streets for All*, “This bill proposes a simple but important change to existing law by increasing the probation period for individuals convicted of unlawfully killing a person while driving under the influence. Currently, someone convicted of this offense can receive a probation term shorter than that of someone convicted of a standard DUI. The bill would close that gap by aligning the probation period for DUI-related vehicular killings with the standard DUI probation length of three to five years. This ensures greater consistency in how DUI offenses are treated, particularly when they result in the most tragic outcome: the loss of life.

“Streets For All strongly supports this bill because street safety is core to our mission. Driving under the influence poses a deadly threat to people walking, biking, and using public space—and accountability matters. When a person loses their life due to an impaired driver, it is not acceptable that the probation period for the offender could be shorter than for a non-lethal DUI. Aligning probation lengths reinforces the seriousness of these crimes and

provides more time for supervision, intervention, and potential rehabilitation, which ultimately enhances public safety for everyone using our streets.

“The ‘with’ or ‘without malice’ distinction in the case of DUI law moreover, is arbitrary. ‘With malice’ or ‘implied malice’ means the person knew that driving under the influence was dangerous and could kill someone, but did it anyway — showing a conscious disregard for human life. Streets For All is of the believe that every driver who has a drivers license issued to them should have this understanding already and therefore citations “without malice” should largely be nonexistent.

“This bill sends a clear message: killing someone while driving under the influence carries serious, lasting consequences. Streets For All urges lawmakers to support this common-sense measure.”

**5) Related Legislation:**

- a) AB 1193 (Gipson), Chapter 750, Statutes of 2024, would eliminate the statute of limitations for hit and run, as defined, resulting in death or injury. AB 1193 is pending a hearing in this committee.
- b) AB 1281 (DeMaio), would increase the punishment for hit-and-run involving death or serious bodily injury from a wobbler to a 15-year state prison term. The hearing on AB 1281 was cancelled at the request of the author.

**6) Prior Legislation:**

- a) AB 2823 (Joe Patterson), of the 2023-2024 Legislative Session, was identical to this bill. AB 2823 did not receive a hearing in this committee.
- b) AB 2943 (Zbur), Chapter 168, Statutes of 2024, among other things, increased the maximum term of probation for shoplifting from up to one year to a period not exceed two years. AB 2943 is pending in Assembly Appropriations Committee.
- c) AB 1067 (Jim Patterson), of the 2023-2024 Legislative Session, would have increased the penalties for fleeing the scene of an accident resulting in the death of another person from an alternate felony-misdemeanor with a maximum punishment of four years in state prison, to an alternate felony-misdemeanor having a maximum punishment of six years in the state prison. AB 1607 failed passage in Assembly Appropriations Committee.
- d) AB 1551 (Gipson), of the 2023-2024 Legislative Session, would have required the California Victim Compensation Board to pay child victims loss of support until they are 18 years old for gross vehicular manslaughter while intoxicated, vehicular manslaughter while intoxicated, or a hit and run while intoxicated, if the offense caused the death of the child’s parent or guardian AB 1551 failed passage in Assembly Appropriations Committee.
- e) AB 582 (Jim Patterson), of the 2021-2022 Legislative Session, was identical to AB 1067. AB 582 was held in the Assembly Appropriations Committee.

- f) AB 1950 (Kamlager), Chapter 328, Statutes of 2020, specifies that a court may not impose a term of probation longer than two years for a felony conviction and one year for a misdemeanor conviction
- g) AB 195 (Jim Patterson), of the 2019-2020 Legislative Session, as amended in the Senate, was identical to AB 1067. AB 195 failed passage in the Senate Public Safety Committee.
- h) AB 2014 (E. Garcia), of the 2017-2018 Legislative Session, would have increased the penalty for fleeing the scene of an accident resulting in death or serious bodily injury from two, three, or four years in state prison to two, four, or six years in state prison. The hearing on AB 2014 was canceled in this committee at the request of the author.

**REGISTERED SUPPORT / OPPOSITION:****Support**

California District Attorneys Association  
California Police Chiefs Association  
Placer County District Attorney's Office  
Streets for All

**Opposition**

None

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