

**First Regular Session
Seventy-Seventh General Assembly
STATE OF SAN ANDREAS**

REVISED

LLS NO. 26-0732.03 Kaylee Reiner x2739

HOUSE BILL 26-027

SENATE SPONSORSHIP

Zokaie, Azalea

HOUSE SPONSORSHIP

Kessel, Ross

House Committees

Judiciary

Senate Committees

Justice, Public Safety & Constitutional Affairs

A BILL FOR AN ACT

**CONCERNING ESTABLISHING TIME LIMITS FOR PROBABLE CAUSE HEARINGS
FOLLOWING ARREST AND BOOKING**

Bill Summary

(Note: This summary applies to this bill as introduced and does not reflect any amendments that may be subsequently adopted. If this bill passes third reading in the house of introduction, a bill summary that applies to the reengrossed version of this bill will be available at <https://saleg.uscgov.com>)

This bill establishes a clear statewide requirement that individuals arrested without a warrant must receive a prompt judicial determination of probable cause following their arrest and booking into a detention facility. The bill codifies the constitutional standard articulated by the United States Supreme Court in *County of Riverside v. McLaughlin*, which held that jurisdictions must generally provide a probable cause determination within forty-eight (48) hours of a warrantless arrest.

Shading denotes HOUSE amendment. Underlining denotes SENATE amendment.

Capital letters or bold & italic numbers indicate new material to be added to existing law.

Dashes through the words or numbers indicate deletions from existing law.

Under this legislation, any person arrested without a warrant must be brought before a judicial officer, or otherwise have a probable cause determination made, within ~~48~~ 24 hours of arrest. The determination may occur during an initial appearance, arraignment, or through another legally authorized procedure, including secure video hearings or sworn written affidavits reviewed by a judge or magistrate.

The bill clarifies that delays beyond the ~~forty-eight (48)~~ twenty-four (24) hour period are presumed unconstitutional unless the government can demonstrate extraordinary circumstances. Routine administrative delays, investigative convenience, staffing shortages, or court congestion are explicitly prohibited from being used as justifications for exceeding the time limit.

If a probable cause determination is not made within the required timeframe, the detained individual must be released from custody without unnecessary delay, unless a judicial warrant supported by probable cause has been issued or the person is being lawfully held on another charge.

1 *Be it enacted by the General Assembly of the State of San*
2 *Andreas:*
3 **SECTION 1. SHORT TITLE.** This Act shall be known and may
4 be referred to as the “Probable Cause Hearing Act.” **SECTION 2.**
5 **LEGISLATIVE FINDINGS AND PURPOSE.** The Legislature
6 finds and declares that: (a) The Fourth Amendment to the United
1 States Constitution guarantees the right of the people to be secure
2 against unreasonable searches and seizures. (b) Individuals
3 arrested without a warrant are entitled to a prompt judicial
4 determination or finding of probable cause to justify their
5 continued detention or restraint of liberty. (c) In County of
6 Riverside v. McLaughlin, the United States Supreme Court held
7 that jurisdictions must generally provide a probable cause
8 determination within forty-eight (48) hours of a warrantless arrest,
9 and that delays beyond that period are presumptively
10 unconstitutional unless justified by bona fide extraordinary

1 circumstances. (d) The Court further recognized that delays
2 motivated by administrative convenience, lack of resources, or
3 investigative delay are not sufficient justification for holding an
4 individual without prompt judicial review. (e) Establishing clear
5 statutory procedures and timelines for probable cause
6 determinations will protect constitutional rights, reduce unlawful
7 detention, and promote consistent administration of justice
8 throughout the state. (f) It is therefore the intent of the Legislature
9 to codify the constitutional requirements established by the United
10 States Supreme Court and ensure that individuals arrested and
11 booked into detention facilities are provided with timely judicial
12 review of the legality of their detention. **SECTION 3.**
13 **DEFINITIONS.** For the purposes of this Act: (a) “Probable cause
14 determination” means a judicial finding that sufficient facts exist
15 to reasonably believe that the arrested individual committed the
16 offense alleged. (b) “Probable cause hearing” means a proceeding
17 before a judge or magistrate for the purpose of making a probable
18 cause determination following a warrantless arrest. (c) “Booking”
19 or “Booked” means the administrative process by which an
20 arrested individual is formally entered into the custody of a
21 detention facility. (d) “Judicial officer” means a judge or
22 magistrate authorized by state law or court rule to make probable
23 cause determinations. (e) “Prompt” means as soon as reasonably
24 feasible, but in no event later than twenty-four hours following a
25 warrantless arrest. **SECTION 4. TIME REQUIREMENT FOR**
26 **PROBABLE CAUSE DETERMINATION.** (a) Any person
27 arrested without a warrant and subsequently booked into a jail or
28 detention facility shall receive a judicial determination of
29 probable cause within ~~forty-eight (48)~~ twenty-four (24) hours of
30 arrest. (b) The probable cause determination may occur during an
31 initial appearance, bond hearing, arraignment, or a separate
32 hearing conducted for that purpose. (c) The determination may be
33 made: (I) In person before a judicial officer; (II) By secure video

1 or electronic appearance, provided that the arrested individual has
2 the opportunity to consult with counsel immediately before and
3 during such appearance; or (III) By a judicial officer's review of
4 sworn affidavits or other procedures authorized by law, provided
5 that any affidavit submitted pursuant to this subsection shall be
6 retained as part of the permanent court record and made available
7 to the accused ~~and their counsel~~ upon request. (d) A delay
8 exceeding ~~forty-eight (48)~~ twenty-four (24) hours shall be
9 presumed unreasonable and unconstitutional unless the state
10 demonstrates that the delay resulted from extraordinary
11 circumstances. (e) Extraordinary circumstances may include: (I)
12 Natural disasters or declared emergencies preventing court
13 operations or physical access to the court; (II) Severe public
14 safety emergencies; or (III) Other unforeseen circumstances that
15 make timely judicial review impossible. (f) The following shall
16 not constitute extraordinary circumstances: (I) Routine
17 administrative delay; (II) Court congestion or scheduling
18 difficulties; (III) Investigative delay for the purpose of gathering
19 additional evidence for the current offense; (IV) Delay motivated
20 by the convenience of law enforcement or detention officials or;
21 (V) holidays and weekends, except that a judicial officer may
22 grant a one-time twelve-hour extension upon a specific showing
23 of a localized telecommunications failure. (g) Right to Counsel.
24 An arrested individual has the right to be represented by counsel
25 during any probable cause determination held pursuant to this
26 section. If the individual is indigent, the court shall appoint the
27 public defender or private counsel at state expense prior to the
28 commencement of the hearing. **SECTION 4.5. MANDATORY**
29 **PROBABLE CAUSE REVIEW.** (a) The custodian of any jail or
30 detention facility shall, within twenty-four hours of an arrested
31 individual's booking, notify the court of the individual's status and
32 provide all arresting documents to the duty judge or magistrate.
33 **SECTION 5. REMEDIES FOR NONCOMPLIANCE.** (a) If a

1 ~~probable cause determination is not made within the time limits~~
2 ~~established by this Act, the detained individual shall be released~~
3 ~~from custody without unnecessary delay, and in no event later~~
4 ~~than three hours after the conclusion of the forty-eight (48)~~
5 ~~twenty-four (24) hour period unless; (I) A judicial warrant based~~
6 ~~on probable cause has been issued; or (II) The individual is~~
7 ~~lawfully detained for another criminal charge or detainer. (b)~~
8 ~~Release under this section shall not bar the state from~~
9 ~~subsequently filing criminal charges supported by probable cause.~~
10 **SECTION 5. REMEDIES FOR NONCOMPLIANCE.** (a) A
11 failure to provide a judicial determination of probable cause
12 within the time limits established by this act shall result in the
13 immediate dismissal of the pending charges with prejudice. (b)
14 The detained individual shall have a civil cause of action against
15 the arresting agency and the detention facility for liquidated
16 damages in the amount of five hundred dollars for every hour of
17 detention beyond the statutory limit. (c) Nothing in this section
18 shall prevent courts from granting appropriate relief for
19 constitutional violations, including suppression of evidence or
20 other remedies authorized by law. (d) Upon the release of an
21 individual pursuant to subsection (a) of this section, the detention
22 facility shall provide the individual with written documentation
23 stating the reason for release and the fact that the release does not
24 prevent the subsequent filing of criminal charges. (e) any
25 statements, admissions, or physical evidence obtained from an
26 arrested individual during a period of detention that exceeds the
27 forty-eight (48) twenty-four (24) hour limit without a judicial
28 determination of probable cause, or during any period of illegal
29 detention shall be presumed involuntary and inadmissible for any
30 purpose, including impeachment in any subsequent criminal
31 proceeding, unless the state rebuts the presumption by clear and
32 convincing evidence. (f) Burden of Proof. In any proceeding to
33 determine whether extraordinary circumstances justified a delay,

1 the burden shall be on the prosecuting attorney to prove the
2 existence of such circumstances by clear and convincing
3 evidence. (g) The “Fruit of the poisonous tree” doctrine shall
4 apply to all evidence derived from such statements or admissions.
5 **SECTION 6. IMPLEMENTATION.** (a) Courts shall establish
6 procedures, including weekend and holiday review schedules, to
7 ensure compliance with the ~~forty-eight (48)~~ twenty-four (24) hour
8 requirement. ~~(b) Law enforcement agencies and detention~~
9 ~~facilities shall coordinate with the courts to ensure timely~~
10 ~~presentation of arrested individuals for probable cause review.~~ (b)
11 The Chief Judge of each judicial district shall designate at least
12 one judicial officer to be available twenty-four hours a day, three
13 hundred sixty-five days a year, for the sole purpose of conducting
14 probable cause reviews via secure electronic means. (c) The
15 Administrative Office of the Courts may adopt rules necessary to
16 implement this Act. (d) Annual Reporting. Beginning January 1,
17 2027, each judicial district shall submit an annual report to the
18 administrative office of the courts and the Judiciary Committees
19 of the House of Representatives and the Senate detailing: (I) the
20 total number of warrantless arrests; (II) the number of cases where
21 probable cause determinations exceeded ~~forty-eight (48)~~
22 twenty-four (24) hours; and (III) the specific "extraordinary
23 circumstances" cited for each delay. (e) the administrative office
24 of the courts shall develop and implement mandatory training for
25 judicial officers and court staff regarding the constitutional
26 standards established in county of Riverside v. McLaughlin and
27 the procedural requirements of this act. **SECTION 7.**
28 **EFFECTIVE DATE.** Act subject to petition – effective date. This
29 act takes effect on August 18, 2026, assuming the general
30 assembly adjourns sine die on May 18, 2026; except that, if a veto
31 petition is filed pursuant to Article II, Section 15 of the state
32 constitution against this act or an item, section, or part of this act
33 within such period, then the act, item, section, or part will not take

- 1 effect unless approved by the people at the general election to be
- 2 held in November 2026 and, in such case, will take effect on the
- 3 date of the official declaration of the vote thereon by the governor.