

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

INTRODUCED

LLS NO. 26-0732.01 Kaylee Reiner x2739

HOUSE BILL 26-027

SENATE SPONSORSHIP

Zokaie, Azalea

HOUSE SPONSORSHIP

Kessel, Ross

House Committees

Not assigned

Senate Committees

Not assigned

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 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 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 cited 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 of probable cause to justify their continued
5 detention. (c) In *County of Riverside v. McLaughlin*, the United
6 States Supreme Court held that jurisdictions must generally
7 provide a probable cause determination within forty-eight (48)
8 hours of a warrantless arrest, and that delays beyond that period
9 are presumptively unconstitutional unless justified by

1 extraordinary circumstances. (d) The Court further recognized
2 that delays motivated by administrative convenience, lack of
3 resources, or investigative delay are not sufficient justification for
4 holding an individual without prompt judicial review. (e)
5 Establishing clear statutory procedures and timelines for probable
6 cause determinations will protect constitutional rights, reduce
7 unlawful detention, and promote consistent administration of
8 justice throughout the state. (f) It is therefore the intent of the
9 Legislature to codify the constitutional requirements established
10 by the United States Supreme Court and ensure that individuals
11 arrested and booked into detention facilities receive prompt
12 judicial 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 means the administrative process by which an arrested individual
20 is formally entered into the custody of a detention facility. (d)
21 “Judicial officer” means a judge, magistrate, or other individual
22 authorized by law to make probable cause determinations.
23 **SECTION 4. TIME REQUIREMENT FOR PROBABLE**
24 **CAUSE DETERMINATION.** (a) Any person arrested without a
25 warrant and subsequently booked into a jail or detention facility
26 shall receive a judicial determination of probable cause within
27 forty-eight (48) hours of arrest. (b) The probable cause
28 determination may occur during an initial appearance,
29 arraignment, or a separate hearing conducted for that purpose. (c)
30 The determination may be made: (I) In person before a judicial
31 officer; (II) By secure video or electronic appearance; or (III)
32 Through sworn affidavits or other procedures authorized by law.
33 (d) A delay exceeding forty-eight (48) hours shall be presumed

1 unreasonable and unconstitutional unless the state demonstrates
2 that the delay resulted from extraordinary circumstances. (e)
3 Extraordinary circumstances may include: (I) Natural disasters or
4 declared emergencies preventing court operations; (II) Severe
5 public safety emergencies; or (III) Other unforeseen
6 circumstances that make timely judicial review impossible. (f)
7 The following shall not constitute extraordinary circumstances: (I)
8 Routine administrative delay; (II) Court congestion or scheduling
9 difficulties; (III) Investigative delay for the purpose of gathering
10 additional evidence; or (IV) Delay motivated by the convenience
11 of law enforcement or detention officials. **SECTION 5.**
12 **REMEDIES FOR NONCOMPLIANCE.** (a) If a probable cause
13 determination is not made within the time limits established by
14 this Act, the detained individual shall be released from custody
15 without unnecessary delay unless: (I) A judicial warrant based on
16 probable cause has been issued; or (II) The individual is lawfully
17 detained for another criminal charge or detainer. (b) Release under
18 this section shall not bar the state from subsequently filing
19 criminal charges supported by probable cause. (c) Nothing in this
20 section shall prevent courts from granting appropriate relief for
21 constitutional violations, including suppression of evidence or
22 other remedies authorized by law. **SECTION 6.**
23 **IMPLEMENTATION.** (a) Courts shall establish procedures,
24 including weekend and holiday review schedules, to ensure
25 compliance with the forty-eight (48) hour requirement. (b) Law
26 enforcement agencies and detention facilities shall coordinate
27 with the courts to ensure timely presentation of arrested
28 individuals for probable cause review. (c) The Administrative
29 Office of the Courts may adopt rules necessary to implement this
30 Act. **SECTION 7. SAFETY CLAUSE.** The General Assembly
31 finds this act necessary for the immediate preservation of public
32 peace, health, and safety.