

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

ENGROSSED

LLS NO. 26-0732.02 Kaylee Reiner x2739

HOUSE BILL 26-027

SENATE SPONSORSHIP

Zokaie, Azalea

HOUSE SPONSORSHIP

Kessel, Ross

House Committees

Judiciary

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, **provided**
32 **that the accused has the opportunity to consult with counsel prior**
33 **to and during such appearance;** or (III) Through sworn affidavits

1 or other procedures authorized by law, provided that any affidavit
2 submitted pursuant to this subsection shall be retained as part of
3 the permanent court record and made available to the accused and
4 their counsel upon request. (d) A delay exceeding forty-eight (48)
5 hours shall be presumed unreasonable and unconstitutional unless
6 the state demonstrates that the delay resulted from extraordinary
7 circumstances. (e) Extraordinary circumstances may include: (I)
8 Natural disasters or declared emergencies preventing court
9 operations; (II) Severe public safety emergencies; or (III) Other
10 unforeseen circumstances that make timely judicial review
11 impossible. (f) The following shall not constitute extraordinary
12 circumstances: (I) Routine administrative delay; (II) Court
13 congestion or scheduling difficulties; (III) Investigative delay for
14 the purpose of gathering additional evidence; (IV) Delay
15 motivated by the convenience of law enforcement or detention
16 officials or; (V) holidays and weekends. **SECTION 5.**
17 **REMEDIES FOR NONCOMPLIANCE.** (a) If a probable cause
18 determination is not made within the time limits established by
19 this Act, the detained individual shall be released from custody
20 without unnecessary delay, and in no event later than three hours
21 after the expiration of the forty-eight (48) hour period unless; (I)
22 A judicial warrant based on probable cause has been issued; or
23 (II) The individual is lawfully detained for another criminal
24 charge or detainer. (b) Release under this section shall not bar the
25 state from subsequently filing criminal charges supported by
26 probable cause. (c) Nothing in this section shall prevent courts
27 from granting appropriate relief for constitutional violations,
28 including suppression of evidence or other remedies authorized by
29 law. (d) Upon the release of an individual pursuant to subsection
30 (a) of this section, the detention facility shall provide the
31 individual with written documentation stating the reason for
32 release and the fact that the release does not prevent the
33 subsequent filing of criminal charges. (e) any statements made by

1 an arrested individual during a period of detention that exceeds
2 the forty-eight (48) hour limit without a judicial determination of
3 probable cause shall be presumed involuntary and inadmissible in
4 any subsequent criminal proceeding, unless the state rebuts the
5 presumption by clear and convincing evidence. **SECTION 6.**
6 **IMPLEMENTATION.** (a) Courts shall establish procedures,
7 including weekend and holiday review schedules, to ensure
8 compliance with the forty-eight (48) hour requirement. (b) Law
9 enforcement agencies and detention facilities shall coordinate
10 with the courts to ensure timely presentation of arrested
11 individuals for probable cause review. (c) The Administrative
12 Office of the Courts may adopt rules necessary to implement this
13 Act. (d) Annual Reporting. Beginning January 1, 2027, each
14 judicial district shall submit an annual report to the administrative
15 office of the courts and the general assembly detailing: (i) the total
16 number of warrantless arrests; (ii) the number of cases where
17 probable cause determinations exceeded forty-eight (48) hours;
18 and (iii) the specific "extraordinary circumstances" cited for each
19 delay. (e) the administrative office of the courts shall develop and
20 implement mandatory training for judicial officers and court staff
21 regarding the constitutional standards established in county of
22 Riverside v. Mclaughlin and the procedural requirements of this
23 act. **SECTION 7. EFFECTIVE DATE.** Act subject to petition –
24 effective date. This act takes effect on August 18, 2026, assuming
25 the general assembly adjourns sine die on May 18, 2026; except
26 that, if a veto petition is filed pursuant to Article II, Section 15 of
27 the state constitution against this act or an item, section, or part of
28 this act within such period, then the act, item, section, or part will
29 not take effect unless approved by the people at the general
30 election to be held in November 2026 and, in such case, will take
31 effect on the date of the official declaration of the vote thereon by
32 the governor.