

# OFFICE OF THE CHIEF OF POLICE

## SPECIAL ORDER NO. 3

January 12, 2023

APPROVED BY THE BOARD OF POLICE COMMISSIONERS ON January 10, 2023

**SUBJECT: CALIFORNIA ASSEMBLY BILL 2223 – REPRODUCTIVE HEALTH**

**PURPOSE:** The purpose of this Order is to provide direction to Department personnel as it relates to California Assembly Bill 2223, which delineates the State of California's position regarding upholding and protecting reproductive health and abortion rights in the state.

**BACKGROUND:** In June 2022, the Supreme Court of the United States overturned *Roe v. Wade*, the landmark 1973 Supreme Court case which determined that the right to have an abortion was conferred by the U.S. Constitution. The State of California, however, has codified access to safe, legal abortions. Currently, lawmakers in other states that have curtailed access to abortion are considering legislation to attempt to extend criminal and civil liability outside of their respective states to patients, providers, and those who assist others in obtaining reproductive health services, including abortions, even in states where the right to obtain an abortion is protected.

On September 27, 2022, Governor Gavin Newsom signed California Assembly Bill (AB) 2223, pertaining to reproductive health and abortion rights. California Assembly Bill 2223 was signed in conjunction with California AB 1242 – Reproductive Rights, and California Executive Order N-12-22 – Non-Extradition of Non-Fugitives. Assembly Bill 1242 and Executive Order N-12-22 were effective September 2022 and June 2022, respectively.

Collectively, the two Assembly Bills and Executive Order establish the below provisions and responsibilities for Department personnel as it relates to reproductive health, or abortion-related, services in the State of California:

- Protect patients from out-of-state who seek reproductive and abortion health care in California, as well as health care providers who offer reproductive services and other persons who help patients access such care;
- Prohibit California law enforcement agencies from extraditing individuals who provide reproductive care services to out-of-state patients in California;
- Prohibit California law enforcement officers from knowingly arresting or knowingly participating in the arrest of a person for performing or aiding in the performance of a lawful abortion, or for obtaining a lawful abortion in California;
- Prohibit a person from being subject to civil and criminal liability in California based on their actions or omissions with respect to their pregnancy or actual, potential, or alleged pregnancy outcome or based on their actions to aid or assist a pregnant person, who is exercising their reproductive rights; and,
- Clarify the distinction between a “fugitive” and “non-fugitive,” (as discussed below) for the purposes of executing arrest warrants connected to reproductive or abortion services.

Existing California law holds that if a person accused of an alleged crime in another state that has issued an arrest warrant were present in that state at the time of the alleged commission of the crime and fled thereafter from that state, then the person is known as a “fugitive” under 1548.2 of the California Penal Code (PC). As a result, the law requires the Governor have that fugitive arrested and delivered to the executive authority of the outside demanding state (per 1548.1 PC).

Conversely, when an accused person commits an act *outside* of a demanding state that intentionally results in an alleged crime in that demanding state, then the accused is known as a “*non-fugitive*.” Under that circumstance, the Governor has discretion to grant or deny another governor’s request for extradition of a non-fugitive (per 1549.1 PC). This Order specifically addresses non-fugitive, non-extradition, out-of-state arrest warrants for reproductive health, or abortion-related offenses.

## PROCEDURE:

**I. OFFICER’S RESPONSIBILITIES.** Sworn personnel shall adhere to Department Manual Section (DMS) 4/725, *Arrest Warrants*, when facilitating fugitive arrests for foreign warrants. Upon conducting investigations with detained out-of-state **non-fugitive** warrant suspects in connection with reproductive health, or abortion-related allegations, officers shall:

- Examine the warrant closely prior to taking any further enforcement action;
- Notify a supervisor;
- Be aware there is no obligation to make an arrest, and that the public policy of the State of California discourages such an arrest in connection with reproductive health services, including abortions, based on an out-of-state, **non-fugitive**, non-full extradition arrest warrant; and,
- Contact Fugitive Warrant Section (FWS), Gang and Narcotics Division for advice.

**Note:** A foreign warrant is a warrant issued by an agency located outside of California (DMS 4/725.06). If a foreign or local arrest warrant is designated as a fugitive, full extradition arrest warrant, then officers *shall* effect the arrest pursuant to 1551 PC.

**II. SUPERVISOR’S REPOSNSIBILITIES.** Upon conducting investigations with detained out-of-state, **non-fugitive**, reproductive health, or abortion-related warrant suspects, supervisors shall ensure:

- Officers perform due diligence to determine the status of any foreign arrest warrant as either “fugitive” or “non-fugitive” prior to taking an accused person into custody;
- Officers notify FWS of any foreign, fugitive, and non-fugitive warrant and obtain booking advice; and,
- The Watch Commander is notified of any decision to arrest or not arrest based on a non-fugitive warrant.

**III. WATCH COMMANDER’S RESPONSIBILITIES.** Upon notification of investigations involving detained, out-of-state, **non-fugitive** warrant suspects, Watch Commanders shall verify:

- The status of any foreign arrest warrant prior to signing any booking approval with no open charge; and,
- That FWS has been notified.

**Note:** This Order specifically addresses foreign warrants in connection to alleged violations of reproductive health and abortion laws of other states. Any questions related to Executive Order N-12-22 shall be directed to FWS for advice. Fugitive Warrant Section may contact the State of California, Office of the Attorney General, for any necessary clarification.

**AUDIT RESPONSIBILITY:** The Commanding Officer, Audit Division, shall review this directive and determine whether an audit or inspection shall be conducted in accordance with Department Manual Section 0/080.30.

A handwritten signature in blue ink, appearing to be 'M. Moore', written over the printed name.

MICHEL R. MOORE  
Chief of Police

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