



# Senator Sydney K. Kamlager (District 30)

## AB 124: Justice for Survivors

### IN BRIEF

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AB 124: Justice for Survivors would support survivors of violence, including intimate partner violence, sexual violence, and human trafficking, by requiring the criminal justice system to consider the full context of relevant factors of a person's circumstances and experiences throughout the court process, including age, impacts of trauma, and stages of development.

### BACKGROUND & PROBLEM

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According to the ACLU, nearly 60% of female state prisoners nationwide and as many as 94% of certain female prison populations experienced physical or sexual abuse before being incarcerated. Black women make up 25% of the incarcerated population in California, yet are only 5% of the adult population, demonstrating an overrepresentation of Black women in prison.

Similar disparities exist for other individuals of color, including Latinx, Asian and Pacific Islander, and indigenous communities. Also, transgender, lesbian, and bisexual women, trans men, and gender non-conforming people are disproportionately survivors of violence and overrepresented in prisons, though little quantitative research is available to highlight these disparities.

Survivors of sexual violence, intimate partner violence, and other severe forms of trauma are more likely to land in the criminal justice system, yet California's current legal framework lacks clear mechanisms to consider relevant factors and experiences that contributed to the commission of the offense. And yet the societal trauma caused by criminalizing these individuals spans generations as this often results in separating families and perpetuating cycles of abuse and trauma. Additionally, criminalizing victims and incarcerating them for long and harsh sentences imposes tremendous costs on the public.

AB 124 works to address the gaps and failures of the current legal system by allowing the court to consider how the defendant's own trauma contributed to the commission of the offense and/or conviction.

### SOLUTION

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AB 124 would create just outcomes moving forward, provide full context of the experiences that contributed to a survivor's actions or inactions, and use a more humanizing and trauma-informed response to criminal adjudication. This legislation will:

- Expand a survivor's access to the human trafficking affirmative defense;
- Grant judges the discretion to avoid imposing sentencing enhancements when the court finds that circumstances, such as human trafficking and intimate partner violence, contributed to the survivor's criminal behavior;
- Require judges to give "great weight" to youthfulness, trauma, sexual violence, and victimization through intimate partner violence and human trafficking when exercising discretion at sentencing stages;
- Allow courts to consider whether the survivor's experience of childhood trauma, intimate partner violence, sexual violence, and human trafficking, was a contributing factor in the commission of the offense when evaluating whether to grant a reduced sentence; and
- Expand the vacatur law to allow survivors to petition the court to vacate convictions and expunge arrests for any crime that was the direct result of being a victim of human trafficking, intimate partner violence, or sexual violence.

In doing so, AB 124 will give survivors a mechanism to seek justice that is holistic and rehabilitative.

### SPONSORS

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Black Futures Lab Public Policy Institute, The California Coalition of Women Prisoners, Free to Thrive, National Center for Youth Law, Survived and Punished, University of Southern California Gould School of Law Post-Conviction Justice Project, Young Women's Freedom Center

### FOR MORE INFORMATION

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**Balkis Awan:** 814.243.2905 or [Balkis.Awan@sen.ca.gov](mailto:Balkis.Awan@sen.ca.gov)