

Date of Hearing: April 14, 2026

ASSEMBLY COMMITTEE ON WATER, PARKS, AND WILDLIFE

Diane Papan, Chair

AB 1722 (Hadwick) – As Amended April 6, 2026

SUBJECT: California Endangered Species Act: take prohibition: self-defense

SUMMARY: Prohibits the imposition of a civil, administrative, or criminal penalty for a violation of the take prohibition under the California Endangered Species Act (CESA) if the defendant committed the act based on a good faith belief that they were acting to protect themselves, a member of their family, or any other individual from bodily harm from a CESA-listed animal. Specifically, **this bill**:

- 1) Notwithstanding any other law, prohibits the imposition of a violation of the take prohibition under CESA (Existing Law #1), if it can be shown by a preponderance of the evidence that the defendant committed an act based on a good faith belief that they were acting to protect themselves, a member of their family, or any other individual from bodily harm from any endangered, threatened, or candidate species (i.e., CESA listed-species).
- 2) Notwithstanding any other law, establishes a defense to prosecution for a violation of the take prohibition under CESA, if the defendant committed the offense based on a good faith belief that they were acting to protect themselves, a member of their family, or any other individual from bodily harm from any CESA-listed species.
- 3) Finds and declares that the federal Endangered Species Act (ESA) establishes a defense for a defendant who has committed an offense of the federal ESA. Further, declares that it is the intent of the Legislature to establish a similar defense for the violation of take for a CESA-listed species.

EXISTING LAW:

- 1) Prohibits a person from taking, or attempting to take, any species that the Fish and Game Commission determines to be an endangered or threatened species [Fish and Game Code (FGC) § 2080].
- 2) States that the provisions in Existing Law #1 also apply to a species designated as a candidate species (FGC § 2085).
- 3) Establishes that an individual is not guilty of a violation of the prohibited take or injury of a mountain lion if it is demonstrated that, in taking or injuring the mountain lion, the individual was acting in self-defense or in defense of others (FGC § 4800).
- 4) Exempts from the prohibition to hunt, trap, or otherwise take a bobcat, situations where the take of the bobcat was based on a good faith belief that the take was necessary to protect a person from immediate bodily harm from the bobcat if both of the following conditions are met:

- a) The person who committed the take notifies the Department of Fish and Wildlife (CDFW) within five days after the take; and
 - b) A bobcat or part of the bobcat taken pursuant to this subdivision is not retained, sold, or removed from the site of the take without the authorization from CDFW (FGC § 4156).
- 5) Makes it unlawful to take a bird, mammal, reptile, or amphibian except as provided in the FGC or regulations adopted pursuant to the FGC. Further, establishes that possession of a bird, mammal, fish, reptile, amphibian, or part of any of those animals, in or on the fields, forests, or waters of this state, or while returning therefrom with fishing or hunting equipment, is prima facie evidence the possessor took the bird, mammal, fish, reptile, or amphibian, or part of that animal (FGC § 2000).
- 6) Provides, notwithstanding any other law, that the accidental taking of a bird, mammal, reptile, or amphibian by collision with a vehicle while that vehicle is being operated on a roadway is not a violation of the FGC or regulations of the FGC, but prohibits the person from possessing the animal after the collision (FGC § 2000.5).
- 7) Makes it unlawful to possess a bird, mammal, fish, reptile, amphibian, or part of any of those animals, taken in violation of the FGC or FGC regulations (FGC § 2002).
- 8) Establishes that it is the policy of the state to conserve its natural resources and to prevent the willful or negligent destruction of birds, mammals, fish, reptiles, or amphibia. Additionally, provides that the state may recover damages in a civil action against any person or local agency which unlawfully or negligently takes or destroys any bird, mammal, fish, reptile, or amphibian protected by the laws of this state and that the measures of the damages will be the amount that compensates for the detriment proximately caused by the taking of the animal (FGC § 2014).
- 9) Establishes that the punishment for any violation of Existing Law #1 and #2 are punishable by a fine of \$25,000–\$50,000 for each violation or imprisonment in county jail for not more than one year, or both a fine and imprisonment (FGC § 12008.1).
- a) Permits a judge, before whom a person is being tried for the taking of an endangered or threatened species, among other animals, with the court’s discretion and upon conviction of that person, to order the forfeiture of any proceeds resulting from the take of the animal (FGC § 12159.5).
 - b) Requires a judge to order the forfeiture of any device or apparatus that is used in committing the offense [FGC § 12157 (b)].
- 10) Defines “take” to mean to hunt, pursue, catch, capture, or kill, or attempt to hunt, pursue, catch, capture, or kill (FGC § 86).
- 11) Provides that any necessary force may be used to protect from wrongful injury the person or property of oneself, or of a spouse, child, parent, or other relative, or member of one’s family, or of a ward, servant, master, or guest (Civil Code § 50).

- 12) States that homicide is justifiable when committed by any person in any of the following cases:
- a) When resisting any attempt to murder any person, or to commit a felony, or to do some great bodily injury upon any person;
 - b) When committed in defense of habitation, property, or person, against one who manifestly intends or endeavors, by violence or surprise, to commit a felony, or against one who manifestly intends and endeavors, in a violent, riotous, or tumultuous manner, to enter the habitation of another for the purpose of offering violence to any person therein;
 - c) When committed in the lawful defense of such person, or of a spouse, parent, child, master, mistress, or servant of such person, when there is reasonable ground to apprehend a design to commit a felony or to do some great bodily injury, and imminent danger of such design being accomplished; but such person, or the person in whose behalf the defense was made, if he or she was the assailant or engaged in mutual combat, must really and in good faith have endeavored to decline any further struggle before the homicide was committed; or
 - d) When necessarily committed in attempting, by lawful ways and means, to apprehend any person for any felony committed, or in lawfully suppressing any riot, or in lawfully keeping and preserving the peace (Penal Code § 197).
- 13) Establishes that no civil penalty shall be imposed for violation of the federal ESA if it can be shown by a preponderance of the evidence that the defendant committed an act based on a good faith belief that he was acting to protect himself or herself, a member of his or her family, or any other individual from bodily harm, from any species listed as endangered or threatened under the federal ESA [16 U.S. Code § 1540 (a)(3)].
- 14) Establishes that it shall be a defense to prosecution under the federal ESA if the defendant committed the offense based on a good faith belief that he was acting to protect himself or herself, a member of his or her family, or any other individual, from bodily harm from any species listed as endangered or threatened under the federal ESA [16 U.S. Code § 1540 (b)(3)].

FISCAL EFFECT: Unknown. This bill is keyed fiscal.

COMMENTS:

- 1) **Purpose of this bill.** According to the author, “CESA prohibits the ‘take’ of a listed species, including actions such as pursuing, capturing, or killing, without clear exceptions for situations involving immediate threats to human safety. As a result, individuals who act to protect themselves or others from bodily harm may still face civil, administrative, or even criminal penalties. [This bill] establishes a clear, good-faith self-defense protection under CESA, aligning California law with the federal ESA, which already recognizes this defense. This bill ensures that individuals and law enforcement on the ground can react immediately and reasonably to protect themselves, their families, or others from harm.”

- 2) **Background.** As of February 2026, there are 165 CESA-listed plants and 110 CESA-listed animals. Of those CESA-listed plants and animals, there are several that may cause bodily harm to an individual: bighorn sheep, gray wolves, and mountain lions.

Federal statute. The federal ESA contains language that is substantially similar to this bill (see Existing Law #13 and #14). These exemptions have been used in several court cases.

The best example is in *United States v. Wallen* [874 F.3d 620, 632 (9th Cir. 2017)], which evaluated the actions of Dan Calvert Wallen, who shot three adolescent grizzly bears. The bear cubs had broken into Wallen's chicken coop, scattered and killed some of the chickens, and frightened his children who were nearby playing. When the three cubs returned later that night, Wallen killed all three. Although he earlier offered several conflicting accounts to federal authorities, Wallen testified at trial that he killed two of the cubs when they came upon him in his yard at night while he was surrounded by his chickens. He claimed that he killed the third cub when it charged him shortly thereafter. Wallen was charged under the federal ESA and, after trial, the magistrate judge concluded that Wallen's self-defense claim was "*objectively* unreasonable" and sentenced Wallen to three years' probation, beginning with 60 days detention, and ordered Wallen to pay \$15,000 in restitution. Wallen appealed.

On the first appeal, the court determined that the magistrate judge incorrectly applied an objective good faith standard instead of a subjective good faith standard when analyzing whether Wallen acted in self-defense. The court concluded that a "good faith belief defense ... ordinarily depends on a defendant's *subjective* state of mind, and the defense is not automatically precluded by evidence that the state of mind was *objectively* unreasonable" (emphasis added). The case was remanded.

Wallen was tried again on the same record before the same magistrate judge. This time, the magistrate judge rejected his self-defense claim on the basis that "Wallen's lack of credibility and inconsistent statements demonstrate that he did not in good faith believe shooting the bears was necessary to protect himself or his family." The district court affirmed Wallen's conviction, and another appeal followed. Although the appellate court review found that the magistrate judge erred by determining that Wallen's lack of credibility rendered his evidence of "good-faith" irrelevant, upon *de novo* review, the court concluded that Wallen was indeed guilty of killing three endangered animals and that Wallen was not truly fearful for the safety of his family.

United States v. Charette [893 F.3d 1169 (9th Cir. 2018)] evaluated the circumstances under which Brian Charette killed a protected grizzly bear that was harassing his horses in a pasture near his home in Montana. Charette claimed that he shot and killed the bear after it chased his dogs towards him and appeared to be climbing the fence into his yard. Throughout the case, Charette maintained that he acted in self-defense. Following a bench trial, a United States magistrate judge convicted Charette of taking the grizzly bear in violation of the federal ESA and the district court affirmed. An appellate panel reversed the district court's ruling because it found that the trial court did not analyze whether Charette acted in self-defense using "objectively reasonable," instead of the "good faith belief" standard, which "requires only a subjective belief in the need to protect oneself or others." According to the courts, the subjective standard is "satisfied when a defendant actually, even if unreasonable, believes his actions are necessary to protect himself or others from perceived danger from a

grizzly bear.” The judgment was reversed, the conviction vacated, and the case was remanded for further proceedings.

In *United States v. Locke Mellott* [4:16-mj-00029 (2016)] Locke Mellott testified that he was afraid for his own safety and the safety of his unarmed hunting partner when he shot a grizzly bear. This testimony was sufficient to shift the burden to the government to disprove Melott’s claim beyond a reasonable doubt. The United States failed to prove beyond a reasonable doubt that Mellott’s belief, that he was acting in defense of himself and his unarmed hunting partner, was not objectively reasonable. Therefore, the United States failed to meet its burden to prove each element of the charge beyond a reasonable doubt and the court found Mellott not guilty of the charge.

Legal standards. This bill is also referred to the Assembly Judiciary Committee, where the judicial aspects of this bill will be more fully addressed. Still, it is critical to understand the legal standards of this bill while in this Committee. This bill exempts the take of an endangered species from penalties, if “it can be shown by a preponderance of the evidence that the defendant committed an act based on a good faith belief.” Written another way, this requires that the evidence indicates that it is more likely than not (over 50% probability) that the defendant acted on honest and reasonable beliefs. As noted in the court cases above, this standard has led to appeals. The controversy likely stems from the difference between the common law standards of self-defense and the “good faith” language in the federal ESA.

To successfully claim self-defense, the following conditions must generally be met: the person must *reasonably* believe that there was an immediate threat of harm, they must believe that force was *reasonably* necessary to prevent that harm, and they must not have used more force than was *reasonably* necessary under the circumstances. This is an objective standard, which has been extensively interpreted by case law: What would a reasonable person do? In contrast, a good faith argument skews towards a subjective standard: What did the defendant actually believe?

There may be concern that a person could intentionally put themselves in a precarious position in order to claim self-defense in the take of a CESA-listed species. Generally, case law limits aggressors from claiming self-defense. In *People v. Gleghorn* [93 Cal. App. 3d 196, 238 Cal. Rptr. 82 (1987)], a human-vs.-human self-defense case, the court found that “not every assault gives rise to the right to kill in self-defense.” Similarly, in *People v. Lee* [95 Cal.App.5th 1164 (2023)] the court found that the defendants provocative conduct was a “substantial factor” in contributing to the crime, and affirmed the conviction. That is, a person cannot claim self-defense if they created or provoked the danger they are in. To the Committee’s knowledge, this finding has never been used to address human-vs.-wildlife self-defense. However, it is possible that if a person is pursuing a CESA-listed species (which is included in the definition of “take”), or is harassing and agitating the animal, and then finds themselves in a self-defense situation, they would not be able to avail themselves of the exemption provided by this bill.

This bill states that the exception to CESA would only apply to a defendant’s actions to “protect themselves, a member of their family, or any other individual from bodily harm.”

An “individual” is generally understood to mean a natural human person, so these provisions could not be interpreted to include pets, livestock, or other property.

Finally, this bill establishes protections for both civil and administrative penalties (proposed subsection a) as well as criminal violations (proposed subsection b).

- 3) **Policy considerations.** No examples of incidents where a CESA-listed species needed to be taken for self-defense have been provided to or discovered by this Committee. Therefore, this bill is addressing a hypothetical problem. With both mountain lions and gray wolves as CESA-listed species, it is possible that self-defense scenarios may arise in the future. Self-defense standards do exist and apply, whether the aggressor is human or animal. This bill, however, proposes a new standard for self-defense that is more flexible and subjective than the existing standard. The good faith standard appears to have created confusion in the courts when the federal self-defense standards have been used. Additionally, this bill proposes a self-defense standard for CESA-listed species that is more lenient than what is presumed to exist for all other species that have not been listed under CESA.
- 4) **Proposed committee amendments.** This bill intends to provide penalty exemptions for self-defense due to conflict with a CESA-listed species (i.e., endangered, threatened, and candidate species), but does not exempt violations against candidate species, which are protected under FGC § 2085. This bill establishes an exception to specific violations, so it is unnecessary to nullify any other law. Additionally, this bill proposed subjective standards to self-defense for CESA-listed species, which contradict the well-established standards for self-defense. Finally, in the event an aggressive animal threatens bodily harm to a person, it is critical to rapidly notify CDFW so they can evaluate the scene or potentially pursue an aggressive animal that may cause harm to others. *To address these concerns, the Committee may wish to request that the author take the amendments outlined below. Should this bill pass this Committee, the author may wish to consider expanding the scope of the bill to include all species. Establishing a self-defense threshold for only CESA-listed species may incorrectly indicate that the standard does not exist for all species.*

(a) The Legislature finds and declares that the federal Endangered Species Act of 1973 (16 U.S.C. Sec. 1531 et seq.) establishes a defense against the imposition of civil penalties, and a defense to prosecution, for the take of an animal listed under the federal act if the defendant committed the act based on a good faith belief that they were acting to protect themselves, a member of their family, or any other individual from that animal (16 U.S.C. Sec. 1540).

(b) It is the intent of the Legislature to establish ~~the same~~ similar defenses against the imposition of civil and criminal penalties for the take of an animal listed under the California Endangered Species Act (Chapter 1.5 (commencing with Section 2050) of Division 3 of the Fish and Game Code) for when that take is necessary and proportional to the threat an animal listed under the California Endangered Species Act may pose to a natural human.

2080.8. (a) ~~Notwithstanding Section 2014 or any other law, a civil~~ A civil or administrative penalty shall not be imposed for a violation of Section 2080 and Section

2085 if it can be shown by a preponderance of the evidence that the defendant ~~committed an act based on a good faith belief that they were acting~~ utilized necessary and reasonable force to protect themselves, a member of their family, or any other individual from immediate bodily harm from any endangered, threatened, or candidate species.

(b) ~~Notwithstanding any other law, it shall~~ It shall be a defense to prosecution for a violation of Section 2080 and Section 2085 if the defendant ~~committed the offense based on a good faith belief that they were acting to~~ utilized necessary and reasonable force to protect themselves, a member of their family, or any other individual from immediate bodily harm from any endangered, threatened, or candidate species.

(c) The person who committed the take, or attempted take, shall notify the department within 24 hours after the take.

- 5) **Arguments in support.** California Rifle & Pistol Association writes in support stating that this bill “simply ensures that law-abiding Californians exercising their natural right to self-defense — often while lawfully carrying firearms for protection in bear or predator country — are not treated as poachers or criminals after defending human life.” Social Compassion in Legislation write in support, but request amendments to add an imminent threat standard to the bill.
- 6) **Arguments in opposition.** Several groups write with an oppose or oppose unless amended position, noting that this bill “weakens California’s current doctrine which allows a reasonable person to defend themselves or another from an imminent threat.” The note that relying on a person’s “good faith belief” that they were in danger would make the enforcement of CESA protections significantly more difficult. They also note that “there is long-standing existing law regarding what is considered valid self-defense from an attack by wildlife, including endangered species, so that it is not clear why there is even a need for this bill.”
- 7) **Double referral.** This bill is also referred to the Assembly Judiciary Committee.
- 8) **Related legislation.** SB 1135 (Blakespear) of the current legislative session requires CDFW, upon appropriation, to establish the Wildlife Coexistence Program to manage and promote wildlife coexistence by conducting specified activities, including maintaining a statewide wildlife incident reporting tool. SB 1135 has been referred to the Senate Natural Resources and Water Committee.

REGISTERED SUPPORT / OPPOSITION:

Support

California Rifle and Pistol Association, INC.
Humane World for Animals (support if amended)

Opposition

Social Compassion in Legislation

Center for Biological Diversity (oppose unless amended)
Defenders of Wildlife (oppose unless amended)

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