Judicial Council *of* California

520 Capitol Mall, Suite 600 · Sacramento, California 95814-4717

Telephone 916-323-3121 · Fax 916-323-4347

PATRICIA GUERRERO
Chief Justice of California
Chair of the Judicial Council

MICHELLE CURRAN
Administrative Director

August 20, 2026

Hon. Timothy Grayson
Member of Senate, 9th District
1021 O Street, Suite 7250
Sacramento, California 95814

Subject: Senate Bill 1208 [Grayson], as amended August 20, 2026—Oppose unless amended

Dear Senator Grayson:

The Judicial Council regrets to inform you that it is opposed to Senate Bill 1208, which primarily mandates new requirements for search warrants in cases involving digital financial assets and establishes a civil asset forfeiture proceeding for such seized assets, unless it is amended to address the issues identified below. The council takes no position on the underlying policy objectives of the bill, instead we have identified a number of provisions that either contradict basic jurisdictional principles, pose conflicts with existing law, or leave unanswered necessary questions that, in total, make it avoidably impracticable for the courts to implement SB 1208. The council appreciates that recent amendments to the bill limit its operation to the year 2032, however, the sunset clause does not address the implementation obstacles posed by SB 1208 and therefore our opposition remains.

SB 1208 contains provisions that seek to extend jurisdiction beyond the authority of basic jurisdictional principles. Specifically, the bill states that jurisdiction covers digital financial assets in any country if the proceeds are traceable to a crime in California or the possessor is a member of a specified conspiracy offense.[1] In addition, the bill states that a search warrant may be issued for digital financial assets related to crimes and victims in other jurisdictions so long as jurisdiction relating to a California crime is established.[2] Although the former provision declares

[1] SB 1208 (Grayson) Pen. Code, § 186.13(k)(1) & (2).

[2] SB 1208 (Grayson) Pen. Code, § 186.13(b)(2).

the intent that jurisdiction be limited to the maximum extent constitutionally permissible, both provisions contain language seemingly in conflict with that intent. The former provision, by extending jurisdiction to any country, appears to address transnational crime through an unattainable route. Generally speaking, international crime enforcement is conducted by the federal government in coordination with the applicable host country pursuant to treaties, federal law, and executive orders.[3] The latter provision, although less express in its terms and more ambiguous, seems to similarly suggest that California judges can issue warrants for digital financial assets located in any other jurisdiction. In California, caselaw allows for a judge in one county to issue a search warrant for property in another county upon specified circumstances, however, the ability to issue a search warrant outside the state is circumspect.[4]

In addition, SB 1208 contains provisions regarding probable cause determinations for search warrants that, similar to the provisions on jurisdiction, pose an undue obstacle for magistrates attempting to reconcile it with existing legal limits. Existing statutory law authorizes a magistrate to issue a search warrant for many, if not all, of the circumstances listed in SB 1208 including but not limited to, where property was stolen or embezzled, if property or things were used to commit a felony, or if items show a felony has been committed.[5] These general outlines are filled in by the Fourth Amendment's proscription on unreasonable searches and seizures, and its requirement that warrants shall only be issued upon probable cause and must particularly describe the place to be searched or the person or things to be seized.[6] The Fourth Amendment balances the need for effective law enforcement against the right to privacy by requiring, "…inferences be drawn by a neutral and detached magistrate instead of being judged by the officer engaged in the often competitive enterprise of ferreting out crime."[7] Decades of constitutional case precedent has shaped rules dictating what this analysis must look like for magistrates. In part, a magistrate must be presented with sufficient information in order to determine probable cause, and their determination cannot merely ratify others' conclusions.[8] To prevent such abdication of the magistrate's duty, they must conscientiously review the sufficiency of the affidavits on which warrants are issued.[9] The rule for determining probable cause is whether the totality of the circumstances within the affidavit demonstrate a fair probability that contraband or evidence of a crime will be found in a particular place.[10] SB 1208, while declaring that warrants may only be issued upon probable cause, simultaneously contains provisions that limit the inferences a magistrate may draw when reviewing the sufficiency of an

---

[3] Federal Bureau of Investigation. *About: Partnerships-International Operations*. <www.fbi.gov/about/partnerships/international-operations> [as of Aug. 18, 2026].

[4] *People v. Fleming* (1981) 29 Cal.3d 698; see also *Fuld v. PLO* (2025) 606 U.S. 1, 15.

[5] Pen. Code, § 1524.

[6] U.S. Const. 4th Amend.

[7] *Johnson v. United States* (1948) 333 U.S. 10, 14.

[8] *Illinois v. Gates* (1983) 462 U.S. 213, 239.

[9] *Ibid*.

[10] *Id*. at 238.

affidavit.[11] While the stated intent of the bill is to help address fungibility and tracing issues where illicitly obtained digital financial assets may have been commingled in an account, of which the council has no concern, by severing traceability requirements and setting up a framework within which magistrates must operate that may be less stringent that what is constitutionally required, it places the court in the untenable position of being statutorily encouraged to find probable cause where probable cause may not exist.[12]

Furthermore, there are other considerations the council would note that could pose implementation issues and may therefore justify a more narrowly tailored approach. As noted by the analysis from the Assembly Public Safety Committee, it is unclear whether the new asset forfeiture proceeding is intended to be civil or criminal in nature, or has the characteristics of one or the other. The distinction is important as a criminal proceeding would require adherence to some of the procedures and rules attendant to criminal proceedings. The Supreme Court of the United States has created a presumption that *in rem* civil forfeiture proceedings are generally not to be considered criminal proceedings, however, the presumption can be rebutted by clear proof that the forfeiture proceeding itself is sufficiently punitive either in purpose or effect.[13] In California, such arguments have been made regarding the existing controlled substances forfeiture scheme. In one case, a defendant alleged their double jeopardy rights were violated based on a criminal case being prosecuted after asset forfeiture proceedings had already been settled (ultimately, it was determined that neither the intent of the controlled substances asset forfeiture scheme nor its effect were equivalent to a criminal proceeding).[14] In contrast to the current controlled substance forfeiture scheme, SB 1208 seems to contemplate a criminal proceeding through intent and effect, by specifically stating that the prosecution may initiate a special proceeding of a criminal nature[15] and by potentially creating a penalty-like punishment by allowing seizure of accounts or wallets having, at one time but not currently, contained stolen digital financial assets that need not be traceable to a crime.[16] It is unclear what rights, such as the right to counsel or right against self-incrimination, would attach if SB 1208 were determined to have created a criminal proceeding.

Lastly, the bill would authorize the court to halt proceedings and issue an order resolving the claim.[17] While the council appreciates the effort to conserve judicial resources, the mechanics and notice questions left open by such a unique approach make it unworkable and thus we are asking for it to be removed to allow the normal processes for such proceedings to remain in place.

---

[11] SB 1208 (Grayson) 186.13(a) & (b).

[12] SB 1208 (Grayson) 186.13(a)(1) & (3); 186.13(b)(1), (2), & (3).

[13] *U.S. v. Ursery* (1996) 518 U.S. 267, 277-78.

[14] *People v. Nazem* (1996) 51 Cal.App.4th 1225.

[15] SB 1208 (Grayson) Pen. Code, § 186.13(e)(1).

[16] SB 1208 (Grayson) Pen. Code, § 186.13(a)(1) & (3)

[17] SB 1208 (Grayson) Pen. Code, § 186.13(h)(3).

For these reasons, the Judicial Council opposes SB 1208 unless it is amended to adequately remedy the aforementioned concerns.

Should you have any questions or require additional information, please contact me at 916-323-3121.

Sincerely,

Mureed Rasool
Attorney
Judicial Council Governmental Affairs

MR/jh

cc: Matthew Fleming, Deputy Legislative Affairs Secretary, Office of the Governor
Michelle Curran, Administrative Director, Judicial Council of California