

AMENDED IN SENATE AUGUST 4, 2014

AMENDED IN ASSEMBLY APRIL 9, 2014

CALIFORNIA LEGISLATURE—2013–14 REGULAR SESSION

ASSEMBLY BILL

No. 2634

Introduced by Assembly Member Bradford

February 21, 2014

An act to amend Section 52.1 of the Civil Code, relating to civil rights.

LEGISLATIVE COUNSEL'S DIGEST

AB 2634, as amended, Bradford. Civil rights.

Under existing law, if a person or persons, whether or not acting under color of law, interferes or attempts to interfere, by threats, intimidation, or coercion, with the exercise or enjoyment by any individual or individuals of rights secured by the Constitution or laws of the United States, or of the rights secured by the Constitution or laws of this state, the Attorney General, or any district attorney or city attorney is authorized to bring a civil action for injunctive and other appropriate equitable relief in the name of the people of the State of California, in order to protect the exercise or enjoyment of the right or rights secured. Existing law also authorizes an individual whose exercise or enjoyment of those rights has been interfered with, or attempted to be interfered with, as described, to institute and prosecute a civil action for damages, including, but not limited to, specified damages, injunctive relief, and other appropriate equitable relief to protect the peaceable exercise or enjoyment of the right or rights secured.

This bill would expand the relief authorized to be sought by an individual in a civil action to include appropriate equitable and

declaratory relief to eliminate a pattern or practice of interference, or attempts to interfere, as described.

This bill would incorporate additional changes to Section 52.1 of the Civil Code proposed by AB 2617 that would become operative only if this bill and AB 2617 are both chaptered and this bill is chaptered last.

Vote: majority. Appropriation: no. Fiscal committee: no.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 52.1 of the Civil Code is amended to
2 read:

3 52.1. (a) If a person or persons, whether or not acting under
4 color of law, interferes by threats, intimidation, or coercion, or
5 attempts to interfere by threats, intimidation, or coercion, with the
6 exercise or enjoyment by any individual or individuals of rights
7 secured by the Constitution or laws of the United States, or of the
8 rights secured by the Constitution or laws of this state, the Attorney
9 General, or any district attorney or city attorney may bring a civil
10 action for injunctive and other appropriate equitable relief in the
11 name of the people of the State of California, in order to protect
12 the peaceable exercise or enjoyment of the right or rights secured.
13 An action brought by the Attorney General, any district attorney,
14 or any city attorney may also seek a civil penalty of twenty-five
15 thousand dollars (\$25,000). If this civil penalty is requested, it
16 shall be assessed individually against each person who is
17 determined to have violated this section and the penalty shall be
18 awarded to each individual whose rights under this section are
19 determined to have been violated.

20 (b) Any individual whose exercise or enjoyment of rights
21 secured by the Constitution or laws of the United States, or of
22 rights secured by the Constitution or laws of this state, has been
23 interfered with, or attempted to be interfered with, as described in
24 subdivision (a), may institute and prosecute in his or her own name
25 and on his or her own behalf a civil action for damages, including,
26 but not limited to, damages under Section 52, injunctive relief,
27 and other appropriate equitable relief to protect the peaceable
28 exercise or enjoyment of the right or rights secured, including
29 appropriate equitable and declaratory relief to eliminate a pattern
30 or practice of conduct as described in subdivision (a).

1 (c) An action brought pursuant to subdivision (a) or (b) may be
2 filed either in the superior court for the county in which the conduct
3 complained of occurred or in the superior court for the county in
4 which a person whose conduct complained of resides or has his
5 or her place of business. An action brought by the Attorney General
6 pursuant to subdivision (a) also may be filed in the superior court
7 for any county wherein the Attorney General has an office, and in
8 that case, the jurisdiction of the court shall extend throughout the
9 state.

10 (d) If a court issues a temporary restraining order or a
11 preliminary or permanent injunction in an action brought pursuant
12 to subdivision (a) or (b), ordering a defendant to refrain from
13 conduct or activities, the order issued shall include the following
14 statement: VIOLATION OF THIS ORDER IS A CRIME
15 PUNISHABLE UNDER SECTION 422.77 OF THE PENAL
16 CODE.

17 (e) The court shall order the plaintiff or the attorney for the
18 plaintiff to deliver, or the clerk of the court to mail, two copies of
19 any order, extension, modification, or termination thereof granted
20 pursuant to this section, by the close of the business day on which
21 the order, extension, modification, or termination was granted, to
22 each local law enforcement agency having jurisdiction over the
23 residence of the plaintiff and any other locations where the court
24 determines that acts of violence against the plaintiff are likely to
25 occur. Those local law enforcement agencies shall be designated
26 by the plaintiff or the attorney for the plaintiff. Each appropriate
27 law enforcement agency receiving any order, extension, or
28 modification of any order issued pursuant to this section shall serve
29 forthwith one copy thereof upon the defendant. Each appropriate
30 law enforcement agency shall provide to any law enforcement
31 officer responding to the scene of reported violence, information
32 as to the existence of, terms, and current status of, any order issued
33 pursuant to this section.

34 (f) A court shall not have jurisdiction to issue an order or
35 injunction under this section, if that order or injunction would be
36 prohibited under Section 527.3 of the Code of Civil Procedure.

37 (g) An action brought pursuant to this section is independent of
38 any other action, remedy, or procedure that may be available to
39 an aggrieved individual under any other provision of law,

1 including, but not limited to, an action, remedy, or procedure
2 brought pursuant to Section 51.7.

3 (h) In addition to any damages, injunction, or other equitable
4 relief awarded in an action brought pursuant to subdivision (b),
5 the court may award the petitioner or plaintiff reasonable attorney’s
6 fees.

7 (i) A violation of an order described in subdivision (d) may be
8 punished either by prosecution under Section 422.77 of the Penal
9 Code, or by a proceeding for contempt brought pursuant to Title
10 5 (commencing with Section 1209) of Part 3 of the Code of Civil
11 Procedure. However, in any proceeding pursuant to the Code of
12 Civil Procedure, if it is determined that the person proceeded
13 against is guilty of the contempt charged, in addition to any other
14 relief, a fine may be imposed not exceeding one thousand dollars
15 (\$1,000), or the person may be ordered imprisoned in a county jail
16 not exceeding six months, or the court may order both the
17 imprisonment and fine.

18 (j) Speech alone is not sufficient to support an action brought
19 pursuant to subdivision (a) or (b), except upon a showing that the
20 speech itself threatens violence against a specific person or group
21 of persons; and the person or group of persons against whom the
22 threat is directed reasonably fears that, because of the speech,
23 violence will be committed against them or their property and that
24 the person threatening violence had the apparent ability to carry
25 out the threat.

26 (k) No order issued in any proceeding brought pursuant to
27 subdivision (a) or (b) shall restrict the content of any person’s
28 speech. An order restricting the time, place, or manner of any
29 person’s speech shall do so only to the extent reasonably necessary
30 to protect the peaceable exercise or enjoyment of constitutional or
31 statutory rights, consistent with the constitutional rights of the
32 person sought to be enjoined.

33 *SEC. 1.5. Section 52.1 of the Civil Code is amended to read:*

34 52.1. (a) If a person or persons, whether or not acting under
35 color of law, interferes by ~~threats~~, *threat*, intimidation, or coercion,
36 or attempts to interfere by ~~threats~~, *threat*, intimidation, or coercion,
37 with the exercise or enjoyment by any individual or individuals
38 of rights secured by the Constitution or laws of the United States,
39 or of the rights secured by the Constitution or laws of this state,
40 the Attorney General, or any district attorney or city attorney may

1 bring a civil action for injunctive and other appropriate equitable
2 relief in the name of the people of the State of California, in order
3 to protect the peaceable exercise or enjoyment of the right or rights
4 secured. An action brought by the Attorney General, any district
5 attorney, or any city attorney may also seek a civil penalty of
6 twenty-five thousand dollars (\$25,000). If this civil penalty is
7 requested, it shall be assessed individually against each person
8 who is determined to have violated this section and the penalty
9 shall be awarded to each individual whose rights under this section
10 are determined to have been violated.

11 (b) Any individual whose exercise or enjoyment of rights
12 secured by the Constitution or laws of the United States, or of
13 rights secured by the Constitution or laws of this state, has been
14 interfered with, or attempted to be interfered with, as described in
15 subdivision (a), may institute and prosecute in his or her own name
16 and on his or her own behalf a civil action for damages, including,
17 but not limited to, damages under Section 52, injunctive relief,
18 and other appropriate equitable relief to protect the peaceable
19 exercise or enjoyment of the right or rights—~~secured~~. *secured,*
20 *including appropriate equitable and declaratory relief to eliminate*
21 *a pattern or practice of conduct as described in subdivision (a).*

22 (c) An action brought pursuant to subdivision (a) or (b) may be
23 filed either in the superior court for the county in which the conduct
24 complained of occurred or in the superior court for the county in
25 which a person whose conduct complained of resides or has his
26 or her place of business. An action brought by the Attorney General
27 pursuant to subdivision (a) also may be filed in the superior court
28 for any county wherein the Attorney General has an office, and in
29 that case, the jurisdiction of the court shall extend throughout the
30 state.

31 (d) If a court issues a temporary restraining order or a
32 preliminary or permanent injunction in an action brought pursuant
33 to subdivision (a) or (b), ordering a defendant to refrain from
34 conduct or activities, the order issued shall include the following
35 statement: VIOLATION OF THIS ORDER IS A CRIME
36 PUNISHABLE UNDER SECTION 422.77 OF THE PENAL
37 CODE.

38 (e) The court shall order the plaintiff or the attorney for the
39 plaintiff to deliver, or the clerk of the court to mail, two copies of
40 any order, extension, modification, or termination thereof granted

1 pursuant to this section, by the close of the business day on which
2 the order, extension, modification, or termination was granted, to
3 each local law enforcement agency having jurisdiction over the
4 residence of the plaintiff and any other locations where the court
5 determines that acts of violence against the plaintiff are likely to
6 occur. Those local law enforcement agencies shall be designated
7 by the plaintiff or the attorney for the plaintiff. Each appropriate
8 law enforcement agency receiving any order, extension, or
9 modification of any order issued pursuant to this section shall serve
10 forthwith one copy thereof upon the defendant. Each appropriate
11 law enforcement agency shall provide to any law enforcement
12 officer responding to the scene of reported violence, information
13 as to the existence of, terms, and current status of, any order issued
14 pursuant to this section.

15 (f) A court shall not have jurisdiction to issue an order or
16 injunction under this section, if that order or injunction would be
17 prohibited under Section 527.3 of the Code of Civil Procedure.

18 (g) An action brought pursuant to this section is independent of
19 any other action, remedy, or procedure that may be available to
20 an aggrieved individual under any other provision of law,
21 including, but not limited to, an action, remedy, or procedure
22 brought pursuant to Section 51.7.

23 (h) In addition to any damages, injunction, or other equitable
24 relief awarded in an action brought pursuant to subdivision (b),
25 the court may award the petitioner or plaintiff reasonable attorney's
26 fees.

27 (i) A violation of an order described in subdivision (d) may be
28 punished either by prosecution under Section 422.77 of the Penal
29 Code, or by a proceeding for contempt brought pursuant to Title
30 5 (commencing with Section 1209) of Part 3 of the Code of Civil
31 Procedure. However, in any proceeding pursuant to the Code of
32 Civil Procedure, if it is determined that the person proceeded
33 against is guilty of the contempt charged, in addition to any other
34 relief, a fine may be imposed not exceeding one thousand dollars
35 (\$1,000), or the person may be ordered imprisoned in a county jail
36 not exceeding six months, or the court may order both the
37 imprisonment and fine.

38 (j) Speech alone is not sufficient to support an action brought
39 pursuant to subdivision (a) or (b), except upon a showing that the
40 speech itself threatens violence against a specific person or group

1 of persons; and the person or group of persons against whom the
2 threat is directed reasonably fears that, because of the speech,
3 violence will be committed against them or their property and that
4 the person threatening violence had the apparent ability to carry
5 out the threat.

6 (k) No order issued in any proceeding brought pursuant to
7 subdivision (a) or (b) shall restrict the content of any person's
8 speech. An order restricting the time, place, or manner of any
9 person's speech shall do so only to the extent reasonably necessary
10 to protect the peaceable exercise or enjoyment of constitutional or
11 statutory rights, consistent with the constitutional rights of the
12 person sought to be enjoined.

13 (l) *The rights, penalties, remedies, forums, and procedures of*
14 *this section shall not be waived by contract except as provided in*
15 *Section 51.7.*

16 *SEC. 2. Section 1.5 of this bill incorporates amendments to*
17 *Section 52.1 of the Civil Code proposed by both this bill and*
18 *Assembly Bill 2617. It shall only become operative if (1) both bills*
19 *are enacted and become effective on or before January 1, 2015,*
20 *(2) each bill amends Section 52.1 of the Civil Code, and (3) this*
21 *bill is enacted after Assembly Bill 2617, in which case Section 1*
22 *of this bill shall not become operative.*