

AMENDED IN ASSEMBLY JUNE 22, 2016  
AMENDED IN ASSEMBLY SEPTEMBER 11, 2015  
AMENDED IN SENATE APRIL 6, 2015

**SENATE BILL**

**No. 690**

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**Introduced by Senator Stone**

February 27, 2015

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An act to amend ~~Section 646.9 of the Penal Code, relating to stalking. Sections 51, 205.5, and 5813 of the Revenue and Taxation Code, relating to taxation, to take effect immediately, tax levy.~~

LEGISLATIVE COUNSEL'S DIGEST

SB 690, as amended, Stone. ~~Stalking—Property tax: senior and disabled veterans.~~

(1) *The California Constitution generally limits ad valorem taxes on real property to 1% of the full cash value, as defined, of that property, and provides that the full cash value base may be adjusted each year by the inflationary rate not to exceed 2% for any given year.*

*Existing property tax law implementing this constitutional authority provides that the taxable value of real property is the lesser of its base year value compounded annually by an inflation factor not to exceed 2%, as provided, or its full cash value. Existing property tax law also provides that the taxable value of a manufactured home is the lesser of its base year value compounded annually by an inflation factor not to exceed 2% or its full cash value.*

*This bill, for any assessment year commencing on or after January 1, 2017, would provide that the inflation factor shall not apply to the principal place of residence, including a manufactured home, of a qualified veteran, as defined, who is 65 years of age or older on the*

lien date, was honorably discharged from military service, and meets specified requirements.

By changing the manner in which local tax officials calculate the taxable value of real property owned by senior veterans, this bill would impose a state-mandated local program.

(2) Existing property tax law provides, pursuant to the authorization of the California Constitution, a disabled veteran's property tax exemption for the principal place of residence of a veteran or a veteran's spouse, including an unmarried surviving spouse, if the veteran, because of injury incurred in military service, is blind in both eyes, has lost the use of 2 or more limbs, or is totally disabled, as those terms are defined, or if the veteran has, as a result of a service-connected injury or disease, died while on active duty in military service. Existing law exempts that part of the full value of the residence that does not exceed \$100,000, or \$150,000, if the veteran's or spouse's household income does not exceed \$40,000, adjusted for inflation, as specified.

This bill, for property tax lien dates on an after January 1, 2017, would instead exempt the full value of the principal place of residence of a veteran or veteran's spouse if the veteran's or spouse's household income does not exceed \$40,000, adjusted for inflation. The bill would also make technical and conforming changes to the disabled veteran's property tax exemption.

By changing the manner in which local tax officials administer the disabled veteran's property tax exemption, this bill would impose a state-mandated local program.

(3) Section 2229 of the Revenue and Taxation Code requires the Legislature to reimburse local agencies annually for certain property tax revenues lost as a result of any exemption or classification of property for purposes of ad valorem property taxation.

This bill would provide that, notwithstanding Section 2229 of the Revenue and Taxation Code, no appropriation is made and the state shall not reimburse local agencies for property tax revenues lost by them pursuant to the bill.

(4) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state,

*reimbursement for those costs shall be made pursuant to these statutory provisions.*

*(5) This bill would take effect immediately as a tax levy.*

~~Existing law defines the crime of stalking as willfully, maliciously, and repeatedly following, or willfully and maliciously harassing, another person, and making a credible threat with the intent to place that person in reasonable fear for his or her safety, or the safety of his or her immediate family.~~

~~This bill would expand that definition to include willfully, maliciously, and repeatedly tracking a person with an electronic tracking device, as defined. By expanding the definition of a crime, this bill would impose a state-mandated local program.~~

~~The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.~~

~~This bill would provide that no reimbursement is required by this act for a specified reason.~~

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

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

1     SECTION 1. Section 51 of the Revenue and Taxation Code is  
2     amended to read:

3     51. (a) For purposes of subdivision (b) of Section 2 of Article  
4     XIII A of the California Constitution, for each lien date after the  
5     lien date in which the base year value is determined pursuant to  
6     Section 110.1, the taxable value of real property shall, except as  
7     otherwise provided in subdivision (b) or (c), be the lesser of:

8     (1) Its base year value, compounded annually since the base  
9     year by an inflation factor, which shall be determined as follows:

10    (A) For any assessment year commencing prior to January 1,  
11    1985, the inflation factor shall be the percentage change in the cost  
12    of living, as defined in Section 2212.

13    (B) For any assessment year commencing after January 1, 1985,  
14    and prior to January 1, 1998, the inflation factor shall be the  
15    percentage change, rounded to the nearest one-thousandth of 1  
16    percent, from December of the prior fiscal year to December of  
17    the current fiscal year in the California Consumer Price Index for

1 all items, as determined by the California Department of Industrial  
2 Relations.

3 (C) For any assessment year commencing on or after January  
4 1, 1998, the inflation factor shall be the percentage change, rounded  
5 to the nearest one-thousandth of 1 percent, from October of the  
6 prior fiscal year to October of the current fiscal year in the  
7 California Consumer Price Index for all items, as determined by  
8 the California Department of Industrial Relations.

9 (D) ~~In no event shall the~~ *The percentage increase for any an*  
10 *assessment year determined pursuant to subparagraph (A), (B), or*  
11 *(C) shall not exceed 2 percent of the prior year's value.*

12 (E) (i) *Notwithstanding any other law, for any assessment year*  
13 *commencing on or after January 1, 2017, the percentage increase*  
14 *for any assessment year determined pursuant to subparagraph*  
15 *(A), (B), or (C) shall not apply to the principal place of residence,*  
16 *including so much of the land surrounding it as is reasonably*  
17 *necessary for use of the dwelling as a home, of a qualified veteran*  
18 *who is 65 years of age or older on the lien date and was honorably*  
19 *discharged from military service.*

20 (ii) *For the purpose of this subparagraph, "qualified veteran"*  
21 *means a person who meets the following criteria:*

22 (I) *He or she meets the criteria specified in subdivision (o) of*  
23 *Section 3 of Article XIII of the California Constitution, except for*  
24 *the limitation on the value of property owned by the veteran or the*  
25 *veteran's spouse.*

26 (II) *If the qualified veteran is single, his or her annual income,*  
27 *as defined in Section 20504, is less than fifty thousand dollars*  
28 *(\$50,000).*

29 (III) *If the qualified veteran is married, his or her household*  
30 *combined annual income, as defined in Section 20504, is less than*  
31 *one hundred thousand dollars (\$100,000).*

32 (iii) *When claiming the benefit provided by this subparagraph,*  
33 *the claimant shall provide all information required by, and answer*  
34 *all questions contained in, an affidavit furnished by the assessor*  
35 *to determine that the claimant is a qualified veteran. The assessor*  
36 *may require additional proof of the information or answers*  
37 *provided in the affidavit before allowing the benefit provided by*  
38 *this subparagraph.*

39 (2) Its full cash value, as defined in Section 110, as of the lien  
40 date, taking into account reductions in value due to damage,

1 destruction, depreciation, obsolescence, removal of property, or  
2 other factors causing a decline in value.

3 (b) If the real property was damaged or destroyed by disaster,  
4 misfortune, or calamity and the board of supervisors of the county  
5 in which the real property is located has not adopted an ordinance  
6 pursuant to Section 170, or any portion of the real property has  
7 been removed by voluntary action by the taxpayer, the taxable  
8 value of the property shall be the sum of the following:

9 (1) The lesser of its base year value of land determined under  
10 paragraph (1) of subdivision (a) or full cash value of land  
11 determined pursuant to paragraph (2) of subdivision (a).

12 (2) The lesser of its base year value of improvements determined  
13 pursuant to paragraph (1) of subdivision (a) or the full cash value  
14 of improvements determined pursuant to paragraph (2) of  
15 subdivision (a).

16 In applying this subdivision, the base year value of the subject  
17 real property does not include that portion of the previous base  
18 year value of that property that was attributable to any portion of  
19 the property that has been destroyed or removed. The sum  
20 determined under this subdivision shall then become the base year  
21 value of the real property until that property is restored, repaired,  
22 or reconstructed or other provisions of law require establishment  
23 of a new base year value.

24 (c) If the real property was damaged or destroyed by disaster,  
25 misfortune or calamity and the board of supervisors in the county  
26 in which the real property is located has adopted an ordinance  
27 pursuant to Section 170, the taxable value of the real property shall  
28 be its assessed value as computed pursuant to Section 170.

29 (d) For purposes of this section, “real property” means that  
30 appraisal unit that persons in the marketplace commonly buy and  
31 sell as a unit, or that is normally valued separately.

32 (e) Nothing in this section shall be construed to require the  
33 assessor to make an annual reappraisal of all assessable property.  
34 However, for each lien date after the first lien date for which the  
35 taxable value of property is reduced pursuant to paragraph (2) of  
36 subdivision (a), the value of that property shall be annually  
37 reappraised at its full cash value as defined in Section 110 until  
38 that value exceeds the value determined pursuant to paragraph (1)  
39 of subdivision (a). In no event shall the assessor condition the

1 implementation of the preceding sentence in any year upon the  
2 filing of an assessment appeal.

3 *SEC. 2. Section 205.5 of the Revenue and Taxation Code is*  
4 *amended to read:*

5 205.5. (a) Property that constitutes the principal place of  
6 residence of a veteran, that is owned by the veteran, the veteran's  
7 spouse, or the veteran and the veteran's spouse jointly, is exempted  
8 from taxation on that part of the full value of the residence that  
9 does not exceed one hundred thousand dollars (\$100,000), as  
10 adjusted for the relevant assessment year as provided in subdivision  
11 (h), if the veteran is blind in both eyes, has lost the use of two or  
12 more limbs, or if the veteran is totally disabled as a result of injury  
13 or disease incurred in military service. The one hundred thousand  
14 dollar (\$100,000) exemption shall be ~~one hundred fifty thousand~~  
15 ~~dollars (\$150,000), as adjusted for the relevant assessment year as~~  
16 ~~provided in subdivision (h); the full value of the property~~ in the  
17 case of an eligible veteran whose household income does not  
18 exceed the amount of forty thousand dollars (\$40,000), as adjusted  
19 for the relevant assessment year as provided in subdivision (g).

20 (b) (1) For purposes of this section, "veteran" means either of  
21 the following:

22 (A) A veteran as specified in subdivision (o) of Section 3 of  
23 Article XIII of the California ~~Constitution without regard to any~~  
24 ~~Constitution, except for the limitation contained therein~~ on the  
25 value of property owned by the veteran or the veteran's spouse.

26 (B) ~~Any~~ A person who would qualify as a veteran pursuant to  
27 paragraph (1) except that he or she has, as a result of a  
28 service-connected injury or disease, *as determined by the United*  
29 *States Department of Veterans Affairs*, died while on active duty  
30 in military service. ~~The United States Department of Veterans~~  
31 ~~Affairs shall determine whether an injury or disease is service~~  
32 ~~connected.~~

33 (2) For purposes of this section, property is deemed to be the  
34 principal place of residence of a veteran, disabled as described in  
35 subdivision (a), who is confined to a hospital or other care facility,  
36 if that property would be that veteran's principal place of residence  
37 were it not for his or her confinement to a hospital or other care  
38 facility, provided that the residence is not rented or leased to a  
39 third party. ~~A~~ *For the purposes of this paragraph, a family member*  
40 ~~that resides at the residence is not considered to be a third party.~~

1 (c) (1) Property that is owned by, and that constitutes the  
2 principal place of residence of, the unmarried surviving spouse of  
3 a deceased veteran is exempt from taxation on that part of the full  
4 value of the residence that does not exceed one hundred thousand  
5 dollars (\$100,000), as adjusted for the relevant assessment year as  
6 provided in subdivision (h), in the case of a veteran who was blind  
7 in both eyes, had lost the use of two or more limbs, or was totally  
8 disabled provided that either of the following conditions is met:

9 (A) The deceased veteran during his or her lifetime qualified  
10 ~~in all respects~~ for the exemption *pursuant to subdivision (a)*, or  
11 would have qualified for the exemption under the laws effective  
12 on January 1, 1977, except that the veteran died prior to January  
13 1, 1977.

14 (B) The veteran died from a disease that was ~~service connected~~  
15 *service-connected*, as determined by the United States Department  
16 of Veterans Affairs.

17 The one hundred thousand dollar (\$100,000) exemption shall  
18 ~~be one hundred fifty thousand dollars (\$150,000), as adjusted for~~  
19 ~~the relevant assessment year as provided in subdivision (h); the~~  
20 *full value of the property* in the case of an eligible unmarried  
21 surviving spouse whose household income does not exceed the  
22 amount of forty thousand dollars (\$40,000), as adjusted for the  
23 relevant assessment year as provided in subdivision (g).

24 (2) ~~Commencing with the 1994-95 fiscal year, property~~*Property*  
25 that is owned by, and that constitutes the principal place of  
26 residence of, the unmarried surviving spouse of a veteran ~~as~~  
27 described in subparagraph (B) of paragraph (1) of subdivision (b)  
28 is exempt from taxation on that part of the full value of the  
29 residence that does not exceed one hundred thousand dollars  
30 (\$100,000), as adjusted for the relevant assessment year as provided  
31 in subdivision (h). The one hundred thousand dollar (\$100,000)  
32 exemption shall ~~be one hundred fifty thousand dollars (\$150,000);~~  
33 ~~as adjusted for the relevant assessment year as provided in~~  
34 ~~subdivision (h); the full value of the property~~ in the case of an  
35 eligible unmarried surviving spouse whose household income does  
36 not exceed the amount of forty thousand dollars (\$40,000), as  
37 adjusted for the relevant assessment year as provided in subdivision  
38 (g).

39 (3) ~~Beginning with the 2012-13 fiscal year and for each fiscal~~  
40 ~~year thereafter, property~~*Property* is deemed to be the principal

1 place of residence of the unmarried surviving spouse of a deceased  
 2 veteran, who is confined to a hospital or other care facility, if that  
 3 property would be the unmarried surviving spouse's principal place  
 4 of residence were it not for his or her confinement to a hospital or  
 5 other care facility, provided that the residence is not rented or  
 6 leased to a third party. For purposes of this paragraph, a family  
 7 member who resides at the residence is not ~~considered to be~~ a third  
 8 party.

9 (d) As used in this section, "property that is owned by a veteran"  
 10 or "property that is owned by the veteran's unmarried surviving  
 11 spouse" includes all of the following:

12 (1) Property owned by the veteran with the veteran's spouse as  
 13 a joint tenancy, tenancy in common, or as community property.

14 (2) Property owned by the veteran or the veteran's spouse as  
 15 separate property.

16 (3) Property owned with one or more other persons to the extent  
 17 of the interest owned by the veteran, the veteran's spouse, or both  
 18 the veteran and the veteran's spouse.

19 (4) Property owned by the veteran's unmarried surviving spouse  
 20 with one or more other persons to the extent of the interest owned  
 21 by the veteran's unmarried surviving spouse.

22 (5) ~~So much of the~~ *That portion of the* property of a corporation  
 23 ~~as that~~ constitutes the principal place of residence of a veteran or  
 24 a veteran's unmarried surviving spouse when the veteran, ~~or~~ the  
 25 veteran's spouse, or the veteran's unmarried surviving spouse is  
 26 a shareholder of the corporation and the rights of shareholding  
 27 entitle one to the possession of property, legal title to which is  
 28 owned by the corporation. The exemption provided by this  
 29 paragraph shall be shown on the local roll and shall reduce the full  
 30 value of the corporate property. ~~Notwithstanding any provision of~~  
 31 law or articles of incorporation or bylaws of a corporation described  
 32 in this paragraph, any reduction of property taxes paid by the  
 33 corporation shall reflect an equal reduction in any charges by the  
 34 corporation to the person who, by reason of qualifying for the  
 35 exemption, made possible the reduction for the corporation.

36 (e) For purposes of this section, ~~being~~ *the following definitions*  
 37 *shall apply:*

38 (1) ~~"Being blind in both eyes eyes"~~ means having a visual acuity  
 39 of 5/200 or less, or concentric contraction of the visual field to 5  
 40 degrees or ~~less; losing~~ *less*.

1 (2) “~~Lost the use of a limb~~ *two or more limbs*” means that the  
2 limb has been amputated or its use has been lost by reason of  
3 ankylosis, progressive muscular dystrophies, or ~~paralysis; and~~  
4 ~~being totally disabled~~ *paralysis*.

5 (3) “*Totally disabled*” means that the United States Department  
6 of Veterans Affairs or the military service from which the veteran  
7 was discharged has rated the disability at 100 percent or has rated  
8 the disability compensation at 100 percent by reason of being  
9 unable to secure or follow a substantially gainful occupation.

10 (f) An exemption granted to a claimant ~~in accordance with the~~  
11 ~~provisions of~~ *pursuant to* this section shall be in lieu of the  
12 veteran’s exemption provided by subdivisions (o), (p), (q), and (r)  
13 of Section 3 of Article XIII of the California Constitution and any  
14 other real property tax exemption to which the claimant may be  
15 entitled. No other real property tax exemption may be granted to  
16 any other person with respect to the same residence for which an  
17 exemption has been granted ~~under the provisions of~~ *pursuant to*  
18 this section; provided, that if two or more veterans qualified  
19 pursuant to this section coown a property in which they reside,  
20 each is entitled to the exemption to the extent of his or her interest.

21 (g) Commencing on January 1, 2002, and for each assessment  
22 year thereafter, the household income limit shall be compounded  
23 annually by an inflation factor that is the annual percentage change,  
24 measured from February to February of the two previous  
25 assessment years, rounded to the nearest one-thousandth of 1  
26 percent, in the California Consumer Price Index for all items, as  
27 determined by the California Department of Industrial Relations.

28 (h) Commencing on January 1, 2006, and for each assessment  
29 year thereafter, the exemption amounts set forth in subdivisions  
30 (a) and (c) shall be compounded annually by an inflation factor  
31 that is the annual percentage change, measured from February to  
32 February of the two previous assessment years, rounded to the  
33 nearest one-thousandth of 1 percent, in the California Consumer  
34 Price Index for all items, as determined by the California  
35 Department of Industrial Relations.

36 (i) *The amendments made to this section by the act adding this*  
37 *subdivision shall apply for property tax lien dates on and after*  
38 *January 1, 2017.*

39 *SEC. 3. Section 5813 of the Revenue and Taxation Code is*  
40 *amended to read:*

1 5813. ~~For~~(a) For each lien date after the lien date for which  
 2 the base year value is determined, the taxable value of a  
 3 manufactured home shall be the lesser of:

4 (a)  
 5 (1) Its base year value, compounded annually since the base  
 6 year by an inflation factor, which shall be the percentage change  
 7 in the cost of living, as defined in Section 51, provided, that any  
 8 percentage increase shall not exceed 2 percent of the prior year's  
 9 value; ~~or value.~~

10 (b)  
 11 (2) Its full cash value, as defined in Section 5803, as of the lien  
 12 date, taking into account reductions in value due to damage,  
 13 destruction, depreciation, obsolescence, or other factors causing  
 14 a decline in ~~value; or value.~~

15 (c)  
 16 (3) If the manufactured home is damaged or destroyed by  
 17 disaster, misfortune, or calamity, its value determined pursuant to  
 18 ~~(b)~~ paragraph (2) shall be its base year value until the  
 19 manufactured home is restored, repaired or reconstructed or other  
 20 provisions of law require establishment of a new base year value.

21 (b) (1) Notwithstanding any other law, for any assessment year  
 22 commencing on or after January 1, 2017, the percentage increase  
 23 for an assessment year determined pursuant to paragraph (1) of  
 24 subdivision (a) shall not apply to the principal place of residence  
 25 of a qualified veteran who owns a manufactured home as his or  
 26 her principal place of residence and who is 65 years of age or  
 27 older on the lien date and was honorably discharged from military  
 28 service.

29 (2) For the purpose of this subdivision, "qualified veteran"  
 30 means a person who meets the following criteria:

31 (A) He or she meets the criteria specified in subdivision (o) of  
 32 Section 3 of Article XIII of the California Constitution, except for  
 33 the limitation on the value of property owned by the veteran or the  
 34 veteran's spouse.

35 (B) If the qualified veteran is single, his or her annual household  
 36 income, as defined in Section 20504, is fifty thousand dollars  
 37 (\$50,000) or less.

38 (C) If the qualified veteran is married, his or her combined  
 39 annual household income, as defined in Section 20504, is one  
 40 hundred thousand dollars (\$100,000) or less.

1 (3) When claiming the benefit provided by this subdivision, the  
 2 claimant shall provide all information required by, and answer  
 3 all questions contained in, an affidavit furnished by the assessor  
 4 to determine that the claimant is a qualified veteran. The assessor  
 5 may require additional proof of the information or answers  
 6 provided in the affidavit before allowing the benefit provided by  
 7 this subdivision.

8 SEC. 4. Notwithstanding Section 2229 of the Revenue and  
 9 Taxation Code, no appropriation is made by this act and the state  
 10 shall not reimburse any local agency for any property tax revenues  
 11 lost by it pursuant to this act.

12 SEC. 5. If the Commission on State Mandates determines that  
 13 this act contains costs mandated by the state, reimbursement to  
 14 local agencies and school districts for those costs shall be made  
 15 pursuant to Part 7 (commencing with Section 17500) of Division  
 16 4 of Title 2 of the Government Code.

17 SEC. 6. This act provides for a tax levy within the meaning of  
 18 Article IV of the Constitution and shall go into immediate effect.

19 SECTION 1. ~~Section 646.9 of the Penal Code is amended to~~  
 20 ~~read:~~

21 ~~646.9. (a) Any person who (1) willfully, maliciously, and~~  
 22 ~~repeatedly follows; (2) willfully, maliciously, and repeatedly tracks~~  
 23 ~~with an electronic tracking device, or (3) willfully and maliciously~~  
 24 ~~harasses, another person and who makes a credible threat with the~~  
 25 ~~intent to place that person in reasonable fear for his or her safety,~~  
 26 ~~or the safety of his or her immediate family, is guilty of the crime~~  
 27 ~~of stalking, punishable by imprisonment in a county jail for not~~  
 28 ~~more than one year, or by a fine of not more than one thousand~~  
 29 ~~dollars (\$1,000), or by both that fine and imprisonment, or by~~  
 30 ~~imprisonment in the state prison.~~

31 ~~(b) Any person who violates subdivision (a) when there is a~~  
 32 ~~temporary restraining order, injunction, or any other court order~~  
 33 ~~in effect prohibiting the behavior described in subdivision (a)~~  
 34 ~~against the same party, shall be punished by imprisonment in the~~  
 35 ~~state prison for two, three, or four years.~~

36 ~~(c) (1) Every person who, after having been convicted of a~~  
 37 ~~felony under Section 273.5, 273.6, or 422, commits a violation of~~  
 38 ~~subdivision (a) shall be punished by imprisonment in a county jail~~  
 39 ~~for not more than one year, or by a fine of not more than one~~

1 thousand dollars (\$1,000), or by both that fine and imprisonment,  
2 or by imprisonment in the state prison for two, three, or five years.

3 ~~(2) Every person who, after having been convicted of a felony~~  
4 ~~under subdivision (a), commits a violation of this section shall be~~  
5 ~~punished by imprisonment in the state prison for two, three, or~~  
6 ~~five years.~~

7 ~~(d) In addition to the penalties provided in this section, the~~  
8 ~~sentencing court may order a person convicted of a felony under~~  
9 ~~this section to register as a sex offender pursuant to Section~~  
10 ~~290.006.~~

11 ~~(e) For the purposes of this section, “harasses” means engages~~  
12 ~~in a knowing and willful course of conduct directed at a specific~~  
13 ~~person that seriously alarms, annoys, torments, or terrorizes the~~  
14 ~~person, and that serves no legitimate purpose.~~

15 ~~(f) For the purposes of this section, “course of conduct” means~~  
16 ~~two or more acts occurring over a period of time, however short,~~  
17 ~~evidencing a continuity of purpose. Constitutionally protected~~  
18 ~~activity is not included within the meaning of “course of conduct.”~~

19 ~~(g) For the purposes of this section, “credible threat” means a~~  
20 ~~verbal or written threat, including that performed through the use~~  
21 ~~of an electronic communication device, or a threat implied by a~~  
22 ~~pattern of conduct or a combination of verbal, written, or~~  
23 ~~electronically communicated statements and conduct, made with~~  
24 ~~the intent to place the person that is the target of the threat in~~  
25 ~~reasonable fear for his or her safety or the safety of his or her~~  
26 ~~family, and made with the apparent ability to carry out the threat~~  
27 ~~so as to cause the person who is the target of the threat to~~  
28 ~~reasonably fear for his or her safety or the safety of his or her~~  
29 ~~family. It is not necessary to prove that the defendant had the intent~~  
30 ~~to actually carry out the threat. The present incarceration of a~~  
31 ~~person making the threat shall not be a bar to prosecution under~~  
32 ~~this section. Constitutionally protected activity is not included~~  
33 ~~within the meaning of “credible threat.”~~

34 ~~(h) For purposes of this section, the term “electronic~~  
35 ~~communication device” includes, but is not limited to, telephones,~~  
36 ~~cellular phones, computers, video recorders, fax machines, or~~  
37 ~~paggers. “Electronic communication” has the same meaning as the~~  
38 ~~term defined in Subsection 12 of Section 2510 of Title 18 of the~~  
39 ~~United States Code.~~

1 ~~(i) This section shall not apply to conduct that occurs during~~  
2 ~~labor picketing.~~

3 ~~(j) If probation is granted, or the execution or imposition of a~~  
4 ~~sentence is suspended, for a person convicted under this section,~~  
5 ~~it shall be a condition of probation that the person participate in~~  
6 ~~counseling, as designated by the court. However, the court, upon~~  
7 ~~a showing of good cause, may find that the counseling requirement~~  
8 ~~shall not be imposed.~~

9 ~~(k) (1) The sentencing court also shall consider issuing an order~~  
10 ~~restraining the defendant from any contact with the victim, that~~  
11 ~~may be valid for up to 10 years, as determined by the court. It is~~  
12 ~~the intent of the Legislature that the length of a restraining order~~  
13 ~~be based upon the seriousness of the facts before the court, the~~  
14 ~~probability of future violations, and the safety of the victim and~~  
15 ~~his or her immediate family.~~

16 ~~(2) This protective order may be issued by the court whether~~  
17 ~~the defendant is sentenced to state prison, county jail, or if~~  
18 ~~imposition of sentence is suspended and the defendant is placed~~  
19 ~~on probation.~~

20 ~~(l) For purposes of this section, “immediate family” means a~~  
21 ~~spouse, parent, child, a person related by consanguinity or affinity~~  
22 ~~within the second degree, or any other person who regularly resides~~  
23 ~~in the household, or who, within the prior six months, regularly~~  
24 ~~resided in the household.~~

25 ~~(m) The court shall consider whether the defendant would~~  
26 ~~benefit from treatment pursuant to Section 2684. If it is determined~~  
27 ~~to be appropriate, the court shall recommend that the Department~~  
28 ~~of Corrections and Rehabilitation make a certification as provided~~  
29 ~~in Section 2684. Upon the certification, the defendant shall be~~  
30 ~~evaluated and transferred to the appropriate hospital for treatment~~  
31 ~~pursuant to Section 2684.~~

32 ~~(n) For the purposes of this section, “electronic tracking device”~~  
33 ~~means an electronic or mechanical device that permits tracking of~~  
34 ~~the movement of a person or object.~~

35 ~~SEC. 2. No reimbursement is required by this act pursuant to~~  
36 ~~Section 6 of Article XIII B of the California Constitution because~~  
37 ~~the only costs that may be incurred by a local agency or school~~  
38 ~~district will be incurred because this act creates a new crime or~~  
39 ~~infraction, eliminates a crime or infraction, or changes the penalty~~  
40 ~~for a crime or infraction, within the meaning of Section 17556 of~~

- 1 ~~the Government Code, or changes the definition of a crime within~~
- 2 ~~the meaning of Section 6 of Article XIII B of the California~~
- 3 ~~Constitution.~~

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