

**Introduced by Senator Block**

January 5, 2016

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An act to amend Section 422 of the Penal Code, relating to criminal threats.

**LEGISLATIVE COUNSEL'S DIGEST**

SB 821, as introduced, Block. Crimes: criminal threats.

Existing law requires that a person who willfully threatens to commit a crime which will result in death or great bodily injury to another person, with the specific intent that the statement, made verbally, in writing, or by means of an electronic communication device, is to be taken as a threat, even if there is no intent of actually carrying it out, which, on its face and under the circumstances in which it is made, is so unequivocal, unconditional, immediate, and specific as to convey to the person threatened, a gravity of purpose and an immediate prospect of execution of the threat, and thereby causes that person reasonably to be in sustained fear for his or her own safety or for his or her immediate family's safety, be punished by imprisonment in the county jail not to exceed one year, or by imprisonment in the state prison.

This bill would instead require that any person who willfully threatens to commit a crime against another person or at a location or event which will result in death or great bodily injury to another person, with the specific intent that the statement, made verbally, in writing, or by means of an electronic communication device, is to be taken as a threat, even if there is no intent of actually carrying it out, be punished by imprisonment in the county jail not to exceed one year, or by imprisonment in the state prison. The bill would provide that a person threatens another person if, on its face and under the circumstances in which a threat is made, the threat is so unequivocal, unconditional,

immediate, and specific as to convey to the person threatened, a gravity of purpose and an immediate prospect of execution of the threat, and thereby causes that person reasonably to be in sustained fear for his or her own safety or for his or her immediate family's safety. The bill would also provide that a person threatens to commit a crime at a location or event, whether a public or private location event, if the threat is made under circumstances where the person making the threat knew or should have known that the threat would elicit precautionary measures. By expanding the scope of a crime, the 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 422 of the Penal Code is amended to  
2 read:  
3 422. (a) (1) Any person who willfully threatens to commit a  
4 crime *against another person or at a location or event* which will  
5 result in death or great bodily injury to another person, with the  
6 specific intent that the statement, made verbally, in writing, or by  
7 means of an electronic communication device, is to be taken as a  
8 threat, even if there is no intent of actually carrying it out, ~~which,~~  
9 ~~on its face and under the circumstances in which it is made, is so~~  
10 ~~unequivocal, unconditional, immediate, and specific as to convey~~  
11 ~~to the person threatened, a gravity of purpose and an immediate~~  
12 ~~prospect of execution of the threat, and thereby causes that person~~  
13 ~~reasonably to be in sustained fear for his or her own safety or for~~  
14 ~~his or her immediate family's safety,~~ shall be punished by  
15 imprisonment in the county jail not to exceed one year, or by  
16 imprisonment in the state prison.  
17 (2) *For purposes of this section, a person threatens another*  
18 *person if, on its face and under the circumstances in which a threat*  
19 *is made, the threat is so unequivocal, unconditional, immediate,*  
20 *and specific as to convey to the person threatened, a gravity of*

1 *purpose and an immediate prospect of execution of the threat, and*  
2 *thereby causes that person reasonably to be in sustained fear for*  
3 *his or her own safety or for his or her immediate family's safety.*

4 (3) *For purposes of this section, a person threatens to commit*  
5 *a crime at a location or event, whether a public or private location*  
6 *or event, if the threat is made under circumstances where the*  
7 *person making the threat knew or should have known that the*  
8 *threat would elicit precautionary measures.*

9 (b) For purposes of this section, “immediate family” means any  
10 spouse, whether by marriage or not, parent, child, any person  
11 related by consanguinity or affinity within the second degree, or  
12 any other person who regularly resides in the household, or who,  
13 within the prior six months, regularly resided in the household.

14 (c) “Electronic communication device” includes, but is not  
15 limited to, telephones, cellular telephones, computers, video  
16 recorders, fax machines, or pagers. “Electronic communication”  
17 has the same meaning as the term defined in Subsection 12 of  
18 Section 2510 of Title 18 of the United States Code.

19 SEC. 2. No reimbursement is required by this act pursuant to  
20 Section 6 of Article XIII B of the California Constitution because  
21 the only costs that may be incurred by a local agency or school  
22 district will be incurred because this act creates a new crime or  
23 infraction, eliminates a crime or infraction, or changes the penalty  
24 for a crime or infraction, within the meaning of Section 17556 of  
25 the Government Code, or changes the definition of a crime within  
26 the meaning of Section 6 of Article XIII B of the California  
27 Constitution.