

AMENDED IN SENATE APRIL 14, 2016

AMENDED IN SENATE MARCH 8, 2016

SENATE BILL

No. 821

Introduced by Senator Block

January 5, 2016

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

LEGISLATIVE COUNSEL'S DIGEST

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

Existing law requires that a person who willfully threatens to commit a crime that 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 a 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 that 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 a county jail not to exceed one year, or by

imprisonment in the state prison. The bill would provide that a person threatens to commit a crime against 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, 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 a *reasonable* person perceiving the threat a gravity of purpose and an immediate prospect of execution of the threat, ~~and thereby causes such that the evacuation, lockdown, or closure of a campus, location, or the cancellation, evacuation, lockdown, or closure of an event.~~ *event appears to be reasonably necessary for the protection of the public.* 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 that 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, shall be
- 9 punished by imprisonment in a county jail not to exceed one year,
- 10 or by imprisonment in the state prison.
- 11 (2) For purposes of this section, a person threatens to commit
- 12 a crime against another person if, on its face and under the

1 circumstances in which a threat is made, the threat is so
2 unequivocal, unconditional, immediate, and specific as to convey
3 to the person threatened, a gravity of purpose and an immediate
4 prospect of execution of the threat, and thereby causes that person
5 reasonably to be in sustained fear for his or her own safety or for
6 his or her immediate family's safety.

7 (3) For purposes of this section, a person threatens to commit
8 a crime at a location or event, whether a public or private location
9 or event, if, on its face and under the circumstances in which a
10 threat is made, the threat is so unequivocal, unconditional,
11 immediate, and specific as to convey to a *reasonable* person
12 perceiving the threat a gravity of purpose and an immediate
13 prospect of execution of the threat, ~~and thereby causes such that~~
14 ~~the evacuation, lockdown, or closure of a campus, location, or the~~
15 ~~cancellation, evacuation, lockdown, or closure of an event. event~~
16 ~~appears to be reasonably necessary for the protection of the public.~~

17 (b) For purposes of this section, "immediate family" means any
18 spouse, whether by marriage or not, parent, child, any person
19 related by consanguinity or affinity within the second degree, or
20 any other person who regularly resides in the household, or who,
21 within the prior six months, regularly resided in the household.

22 (c) "Electronic communication device" includes, but is not
23 limited to, telephones, cellular telephones, computers, video
24 recorders, fax machines, or pagers. "Electronic communication"
25 has the same meaning as the term defined in Subsection 12 of
26 Section 2510 of Title 18 of the United States Code.

27 SEC. 2. No reimbursement is required by this act pursuant to
28 Section 6 of Article XIII B of the California Constitution because
29 the only costs that may be incurred by a local agency or school
30 district will be incurred because this act creates a new crime or
31 infraction, eliminates a crime or infraction, or changes the penalty
32 for a crime or infraction, within the meaning of Section 17556 of
33 the Government Code, or changes the definition of a crime within
34 the meaning of Section 6 of Article XIII B of the California
35 Constitution.