

Date of Hearing: April 8, 2026

ASSEMBLY COMMITTEE ON APPROPRIATIONS

Buffy Wicks, Chair

AB 1538 (Krell) – As Amended March 26, 2026

Policy Committee: Public Safety

Vote: 8 - 0

Urgency: No

State Mandated Local Program: Yes

Reimbursable: No

SUMMARY:

This bill makes it a crime for an elected or appointed official to retaliate or exert political retribution against any person exercising a state or federal constitutional right.

Specifically, this bill:

- 1) Conditions existence of a crime on the presence of intent on the part of an elected or appointed official to suppress another from continuing to exercise a state or federal constitutional right.
- 2) Makes a violation punishable by forfeiture of office.
- 3) Exempts the hiring and personnel decisions of an elected or appointed official.

FISCAL EFFECT:

- 1) Costs of an unknown amount for investigation, prosecution, and adjudication of a new crime (General Fund). Because this bill creates a new crime, the number of cases and resulting costs cannot be determined. The bill targets a narrow class of potential defendants—elected and appointed officials acting under color of authority—and requires proof of specific intent to suppress the exercise of constitutional rights. Prosecutions under this provision are likely to be rare. The penalty—forfeiture of office—does not include incarceration or fines, so the bill would not result in additional state prison or county jail costs.
- 2) Cost pressures (Trial Court Trust Fund, General Fund) of an unknown but potentially significant amount to the courts to adjudicate criminal enforcement actions authorized by this bill. Actual costs will depend on the number of cases filed and the amount of court time needed to resolve each case. It generally costs approximately \$1,000 to operate a courtroom for one hour. Although courts are not funded on the basis of workload, increased pressure on the Trial Court Trust Fund may create a demand for increased funding for courts from the General Fund. The state budget provides an annual General Fund backfill to the Trial Court Trust Fund to offset ongoing declining revenue. This backfill was \$37.3 million in 2024-25.

The Legislative Analyst's Office recently warned of General Fund structural deficits of around \$35 billion per year beginning in the 2027-28 fiscal year.

COMMENTS:

1) **Purpose.** According to the author,

The real danger is that today's shocking abuses of power become routine, permanent parts of tomorrow's political culture. AB 1538 ensures that no official who abuses their office to settle personal scores is allowed to remain.

2) **Background.** Existing law provides several protections against the abuse of governmental authority. For example, Penal Code Section 422.6 prohibits the use of force or threats to interfere with a person's exercise of constitutional rights based on protected characteristics. Civil Code Section 51.7 establishes the right to be free from violence or intimidation based on political affiliation. Penal Code Section 165 makes it a crime to bribe local officials and provides for forfeiture of office upon conviction. Government Code Section 9055 provides that a member of the Legislature convicted of certain crimes forfeits their office. This bill would go beyond existing law by creating a standalone criminal prohibition on official retaliation for a person's exercise of any constitutional right, regardless of whether the retaliation involves force or is motivated by a protected characteristic. The penalty— forfeiture of office—is unusual for a criminal statute. Most criminal laws provide for incarceration, fines, or both. Forfeiture of office is more commonly a consequence of impeachment, which requires a majority vote of the Assembly and a two-thirds vote of the Senate under the California Constitution.

The policy committee analysis raises several legal concerns with the bill. Chief among these are potential constitutional challenges for vagueness, potential conflicts with separation-of-powers principles, and questions about the bill's enforceability against various categories of public officials. For example, the analysis notes the bill could apply to law enforcement officers, judges issuing valid court orders, or legislators acting within the scope of their duties—applications that may implicate legislative immunity, judicial independence, and the constitutional authority of each branch to discipline its own members.

3) **Related Legislation.** AB 1535 (Davies) establishes felonies motivated by the victim's political affiliation as a discretionary circumstance in aggravation that courts may consider in sentencing. AB 1535 is pending hearing in the Assembly Appropriations Committee.

AB 1545 (Krell) would, among other things, provide enhanced penalties for the commission of an offense that is a targeted attack on a person who is reasonably identifiable as a journalist. AB 1545 is pending hearing in the Assembly Public Safety Committee.

Analysis Prepared by: Shiran Zohar / APPR. / (916) 319-2081