
ENATE COMMITTEE ON PUBLIC SAFETY

Senator Jesse Arreguín, Chair
2025 - 2026 Regular

Bill No: AB 237 **Hearing Date:** July 1, 2025
Author: Patel
Version: May 23, 2025
Urgency: No **Fiscal:** Yes
Consultant: SU

Subject: *Crimes: threats*

HISTORY

Source: San Diego County District Attorney's Office

Prior Legislation: SB 796 (Alvarado-Gil), held in Assembly Approps., 2024
SB 1330 (Borgeas), failed passage Sen. Public Safety, 2022
SB 1391 (Borgeas), held in Sen. Public Safety, 2020
AB 907 (Grayson), held in Sen. Approps., 2019
AB 2768 (Melendez), held in Assembly Approps., 2018
SB 110 (Fuller), vetoed, 2015
SB 456 (Block), vetoed, 2015

Support: Arcadia Police Officers' Association; Brea Police Association; Burbank Police Officers' Association; California Association of Highway Patrolmen; California Association of School Police Chiefs; California Coalition of School Safety Professionals; California Narcotic Officers' Association; California Reserve Peace Officers Association; City of San Diego; Claremont Police Officers Association; Corona Police Officers Association; Culver City Police Officers' Association; Fullerton Police Officers' Association; Hindu American Foundation, INC.; League of California Cities; Los Angeles School Police Management Association; Los Angeles School Police Officers Association; Murrieta Police Officers' Association; Newport Beach Police Association; Palos Verdes Police Officers Association; Peace Officers Research Association of California; Placer County Deputy Sheriffs' Association; Pomona Police Officers' Association; Rancho Bernardo Community Council; Riverside Police Officers Association; Riverside Sheriffs' Association; San Diego County District Attorney's Office; United Administrators of Southern California

Opposition: ACLU California Action; Alliance for Boys and Men of Color; Black Organizing Project; California Public Defenders Association; Californians United for a Responsible Budget; Community Asset Development Re-defining Education; Disability Rights California; Ella Baker Center for Human Rights; Fresh Lifelines for Youth; Initiate Justice; Justice2jobs Coalition; LA Defensa; Public Counsel; Sister Warriors Freedom Coalition; The Collective for Liberatory Lawyering; Youth Law Center

Assembly Floor Vote: 75 - 0

PURPOSE

The purpose of this bill is to create a new crime of threatening to commit a crime that will result in death or great bodily injury at a daycare, school, university, workplace, house of worship, or medical facility, punishable as an alternate felony-misdemeanor.

Existing law states that any 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 (either verbally, in writing, or by means of an electronic device) is to be taken as a threat, even if there is no intent of 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, and which thereby causes the person reasonably to be in sustained fear for their own safety or that of their family, is guilty of a crime punishable either as a misdemeanor or felony, as specified. (Pen. Code, § 422.)

Existing law states that any person who with intent to cause, attempts to cause, or causes, any officer or employee of any public or private educational institution to do, or refrain from doing, any act in the performance of his or her duties, by means of a directly-communicated threat to the person, to inflict unlawful injury upon any person or property, and it reasonably appears to the recipient that such threat could be carried out, is guilty of a crime. (Pen. Code, § 71, subd. (a).)

Existing law states that any person who with intent to annoy, telephones another or contacts him or her by means of an electronic device, and threatens to inflict injury on the person or the person's family, or to the person's property is guilty of a misdemeanor. (Pen. Code, § 653m, subd. (a).)

Existing law provides that any person who with intent to cause, attempts to cause or causes, another to refrain from exercising his or her religion or from engaging in a religious service by means of a threat directly communicated to such a person to inflict an injury upon the person or property, and it reasonably appears to the recipient that such a threat could be carried out, is guilty of a felony. (Pen. Code, § 11412.)

Existing law provides that any person who knowingly threatens to use a weapon of mass destruction with the specific intent that the statement, as defined, or a statement made by means of an electronic device, is to be taken as a threat, even if there is no intent of carrying it out, which on its face and under the circumstances in which it is made, is so unequivocal, immediate, and specific as to convey to the person threatened, a gravity of purpose and an immediate prospect of execution, and thereby causes the person reasonably to be in sustained fear of for personal safety or that of their family is guilty of a crime. (Pen. Code, § 11418.5, subd. (a).)

Existing law defines a "hate crime" as a criminal act committed, in whole or in part, because of one or more of the following actual or perceived characteristics of the victim:

- Disability;
- Gender;
- Nationality;
- Race or ethnicity;
- Religion;

- Sexual orientation;
- Association with a person or group with one or more of these actual or perceived characteristics. (Pen. Code, § 422.55, subd. (a).)

Existing law provides that a “hate crime” includes but is not limited to violating or interfering with the exercise of civil rights, or knowingly defacing, destroying, or damaging property because of actual or perceived characteristics of the victim that fit the “hate crime definition.” (Pen. Code, §§ 422.55, subds. (a) & (b), 422.6, subds. (a) & (b).)

Existing law provides that a conviction for violating or interfering with the civil rights of another on the basis of actual or perceived characteristics of the victim that fit the “hate crime” definition is punishable by imprisonment in a county jail not to exceed one year, or by a fine not to exceed \$5,000, or by both the above imprisonment and fine, and a minimum of community service, not to exceed 400 hours, as specified. (Pen. Code, § 422.6, subd. (c).)

Existing law makes any other hate crime that is not punishable by imprisonment in the state prison a wobbler (punishable alternatively as a misdemeanor or county jail felony) if the crime is committed against the person or property of another for the purpose of intimidating or interfering with that other person’s free exercise or enjoyment of any constitutional right under any of the following circumstances:

- The crime against the person either includes the present ability to commit a violent injury or causes actual physical injury;
- The crime against property causes damage in excess of \$950; or,
- The person charged with a crime under this provision has been convicted previously of a hate crime or conspiracy to commit a hate crime, as specified. (Pen. Code, § 422.7.)

Existing law provides that unless punishable under the provision above:

- A person who commits a felony that is a hate crime or attempts to do so, shall receive an additional term of one, two, or three years in the state prison, at the court's discretion; and,
- A person who commits a felony that is a hate crime, or attempts to do so, and who voluntarily acted in concert with another person in the commission of the crime shall receive an additional term of two, three, or four years in the state prison. (Pen. Code, § 422.75, subds. (a) & (b).)

Existing law provides that every person who intentionally disturbs or disquiets any assemblage of people met for religious worship at a tax-exempt place of worship, by profane discourse, rude or indecent behavior, or by any unnecessary noise, either within the place where the meeting is held, or so near it as to disturb the order and solemnity of the meeting, is guilty of a misdemeanor punishable by a fine not exceeding \$1,000, or by imprisonment in a county jail for a period not exceeding one year, or by both. (Pen. Code, § 302.)

This bill provides that any person who, willfully threatens, by any means, including, but not limited to, an image or threat posted or published on an internet web page, to commit a crime that will result in death or great bodily injury to another person or persons at a daycare, school, university, workplace, house of worship, or medical facility with specific intent that the statement is to be taken as a threat, even if there is no intent of actually carrying it out, if the

threat 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 or persons threatened a gravity of purpose and an immediate prospect of execution of the threat, and if that threat causes a person or person to reasonably be in sustained fear for their own safety or the safety of others at these locations, is guilty of a crime.

This bill states that the new crime is an alternate felony-misdemeanor, punishable by imprisonment in county jail for a term not exceeding one year, or in county jail for 16 months, or 2 or 3 years pursuant to realignment.

This bill specifies that a person under 18 years of age who commits this crime is guilty of a misdemeanor.

This bill states that this crime does not preclude punishment under any other law, but prohibits dual conviction for this crime and the general criminal threats statute based on the same threat.

COMMENTS

1. Need for This Bill

According to the author:

The rise of threats against sensitive locations has continued to increase. Paired with the increasing number of actual violent acts in schools, synagogues, public venues, institutions, and care facilities, we must be able to act even when the crime is just a threat. AB 237 closes a loophole in Penal Code 422 that complicates prosecution and clarifies that it's criminal to threaten a location. It's common sense to understand that threatening a building threatens people in that building.

2. Elements Required for Criminal Threat Prosecutions

In order to convict a person under the current criminal threat statute, Penal Code section 422, the prosecutor must prove the following:

- 1) that the defendant willfully threatened to commit a crime which will result in death or great bodily injury to another person;
- 2) that the defendant made the threat;
- 3) that the defendant intended that the statement is to be taken as a threat, even if there is no intent of actually carrying it out;
- 4) that the threat was 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;
- 5) that the threat actually caused the person threatened to be in sustained fear for his or her own safety or for his or her immediate family's safety; and,

- 6) that the threatened person's fear was reasonable under the circumstances. (Pen. Code, §422; CALCRIM No. 1300; see also *People v. Toledo* (2001) 26 Cal.4th 221, 227-228.)

Penal Code section 422 applies to all criminal threats which will result in death or great bodily injury regardless of location or the exact type of violence that is threatened.

This bill seeks to create the specific crime of criminal threats when the threat is to take place at a daycare, school campus, university, workplace, house of worship, or medical facility. This new crime is very similar to the existing criminal threats statute. Some prosecutors argue that the current criminal threats statute does not fit well into instances of threats to locations in general rather than to specific persons.

However, a recent example illustrating the existing law's application to threats of violence on school grounds notwithstanding no specified target can be found in an appellate court's recent ruling. In *In re A.G.* (2020) 58 Cal.App.5th 647, A.G., a high school student posted an image of a realistic-looking gun replica with the caption, "Everybody goes to school tomorrow. I'm taking gum [sic]," on his Snapchat account, which was visible to about 60 "friends." (*Id.* at p. 650.) Another student saw the post, "worried when she saw the story because she knew school shootings happened regularly", and alerted a teacher. (*Id.* at p. 651.) This same student saw a subsequent post by A.G. saying, "Everyone, it wasn't real. I was xanned out." But this did not alleviate her fear. (*Ibid.*) The juvenile court found this conduct was sufficient to constitute a violation of the criminal threats statute, Penal Code section 422. (*Id.* at p. 650.) The minor appealed alleging insufficient evidence to support the adjudication. Specifically, the minor alleged that the evidence failed to show: "(1) he intended his Snapchat post to be understood as a threat; (2) he willfully threatened to unlawfully kill or cause great bodily injury to anyone; (3) he intended to threaten D.J. or Henriquez specifically; (4) any alleged threat was unequivocal or unambiguous to reasonably sustain fear in either D.J. or Henriquez; or (5) any threat to D.J. or Henriquez was sufficiently immediate to place either of them in fear." (*Id.* at p. 653.) The appellate court disagreed with all of A.G.'s contentions and affirmed. (*Id.* at p. 659.)

Similar facts were sufficient to uphold a juvenile adjudication in *In re L.F.* (June 3, 2015, A142296) [nonpub. opn.]. In that case, the adjudged minor was a Fairfield High School student who posted on her Twitter account that she planned to bring a gun to school and shoot people. While she did note specified areas of the school and one of the campus monitors by name in some of her posts, her Tweets were generally targeted at all of the students and staff at the school. The petition filed against the minor alleged that the minor had made criminal threats against "Fairfield High School students and staff" instead of listing specific persons. (*Id.* at p. 4.) The appellate court affirmed the juvenile court's ruling that the minor had violated the existing criminal threats statute, and found that the minor intended her comments to be taken as threats, even though she contended that she was only joking. (*In re L.F.*, supra, A142296. at p. 8; see also Egelko, *Smiling Emojis Aside, Student's Threats Were Serious, Court Says*, San Francisco Chronicle, (June 4, 2015) <<http://www.sfgate.com/crime/article/Smiling-emojis-aside-student-s-threats-were-6307626.php>>.)

In other words, despite assertions that the current criminal threats statute is insufficient because a general threat to people at a school or house of worship or some other building cannot be prosecuted, courts have upheld convictions/juvenile adjudications on these facts.

Additionally, it should be noted that as to places of worship, general threats which do not single out an individual can be prosecuted under hate crime laws or a violation of Penal Code section 11412.

3. Punishment for This New Crime

The existing crime of criminal threats is punishable as either a misdemeanor or a felony. (Pen. Code, § 422.) When a criminal threats conviction is punished as a felony, it is also becomes a serious felony for purposes of enhanced punishment under the Three Strikes Law (Pen. Code, 1192.7. subd. (c)(38)) and the five-year prison enhancement for prior serious felony convictions (Pen. Code, § 667). Additionally it triggers credit earning limitations. (Pen. Code, § 1170.12; see also *People v. Moore* (2004) 118 Cal.App.4th 74.)

This bill would also punish the new crime as an alternate felony or misdemeanor, with the felony punishment being served in county jail rather than state prison. This bill does not add the newly-created crime of criminal threats directed at a daycare, school, university, workplace, place of worship, or medical facility to the serious-felony list. Therefore, credits limitations and future enhanced penalty provisions for prior convictions would not apply. This bill would also specify that a minor committing this offense can be adjudicated only of a misdemeanor.

This bill would specify that a perpetrator can be prosecuted for a threat under the general criminal threats statute, Penal Code section 422, or any other law; but that the person cannot be convicted for both the general statute and this more particularized one.

Because of the differences in punishment, the creation of this new crime gives prosecutors additional charging options and judges additional sentencing options.

4. First Amendment Implications

The First Amendment to the United States Constitution provides that, “Congress shall make no law . . . abridging the freedom of speech.” (U.S. Const. Amend. I, Section 1.) The California Constitution also protects free speech. “Every person may freely speak, write and publish his or her sentiments on all subjects, being responsible for the abuse of this right. A law may not restrain or abridge liberty of speech or press.” (Cal. Const. Art. I, § 2.) “[A]s a general matter, the First Amendment means that government has no power to restrict expression because of its message, its ideas, its subject matter, or its content.” (*Ashcroft v. American Civil Liberties Union* (2002) 535 U.S. 564, 573.)

True threats of violence are outside the bounds of First Amendment protection and punishable as crimes. (See generally, *Brandenburg v. Ohio* (1969) 395 U.S. 444, 447; *Virginia v. Black* (2003) 538 U.S. 343, 359.) True threats is defined by the court as “serious expression[s]” conveying that a speaker means to “commit an act of unlawful violence.” (*Virginia v. Black, supra*, 538 U. S., at 359.) Whether the speaker is aware of, or intends to convey, the threatening aspect of the message is not part of what makes a statement a threat. (*Elonis v. United States* (2015) 575 U.S. 723, 733.). The existence of a threat depends not on “the mental state of the author,” but on “what the statement conveys” to the person on the other end.” (*Ibid.*)

As noted above, this statute is very similar to the existing criminal threats statute and requires the same elements. California's criminal threats statute has been ruled constitutional. (See *People v. Maciel* (2003) 113 Cal.App.4th 679, 684, citing *People v. Heilman* (1994) 25 Cal.App.4th 391, 401 ["A criminal statute that prohibits a threat made with the specific intent to place the victim reasonably in fear of death or great bodily injury is not unconstitutionally vague."].) Given the similarities, it seems likely that this statute will also not be viewed as violating the First Amendment.

5. Argument in Support

According to the City of San Diego:

This legislation addresses a disturbing trend that continues to plague communities across California and the nation — the rise of threats targeting places where people expect safety, care, and community. While some of these threats are not ultimately carried out, the psychological harm, disruption, and public safety response they provoke are real and substantial.

AB 237 provides law enforcement with an important tool to address these threats before they escalate. By establishing clear consequences for willfully making threats of mass violence against sensitive and vulnerable institutions, the bill helps to deter harmful conduct and protect the well-being of students, educators, patients, healthcare workers, worshippers, and employees.

6. Argument in Opposition

According to the American Civil Liberties Union California Action:

While ensuring that our schools, workplaces, houses of worship, hospitals, and public venues are safe spaces is of the utmost importance, we do not believe this bill is necessary to accomplish that goal. Current law, Penal Code § 422, makes it a felony to willfully threaten to commit a crime which will result in death or great bodily injury to another person, with the specific intent that the statement is to be taken as a threat, even if there is no intent of carrying the threat out. Current law already punishes criminal threats in all settings.

Moreover, we caution against expanding §422 because the existing law's enforcement is often problematic. Penal Code Section §422 is often misused to penalize conduct that does not truly belong in the criminal justice system. Penal Code section §422, like AB 237, does not require that the person making the threat have either the intent or the ability to carry it out, or that the person take any action to carry out the threat. Defendants – often young people, or individuals with mental health issues – face criminal punishment for mere words even when they have no intent to take any action. This is particularly true for those with mental health conditions, who often suffer from crippling paranoia and delusions. The fear they experience can lead them to say things that are easily misinterpreted threats as a product of their illness. Thus, expanding this statute is not the avenue that the Legislature should use to address this issue.