Date of Hearing: April 14, 2026
Counsel: Kimberly Horiuchi

ASSEMBLY COMMITTEE ON PUBLIC SAFETY
Nick Schultz, Chair

AB 2664 (Bauer-Kahan) – As Amended March 19, 2026

As Proposed to be Amended in Committee

SUMMARY: Prohibits any person from, within 100 feet of an entrance or exit of a place of religious worship, as specified, and within 8 feet of a person or occupant of vehicle, passing a leaflet or handbill, displaying a sign to, or engaging in oral protest or education of a person or occupant of a vehicle, or harassing, obstructing, threatening, or intimidating another person or occupant of a vehicle. Specifically, **this bill**:

1) Forbids any person within a radius of 100 feet from an entrance or exit of a place of religious worship, from intentionally approaching another person or occupant of a motor vehicle within eight feet of that person or occupant, unless they consent, to do either of the following:

    a) Pass a leaflet or handbill to, display a sign to, or engage in oral protest or education with the other person or occupant.

    b) Harass, obstruct, threaten, or intimidate the other person or occupant.

2) Mandates eight feet shall be measured from the body of the person seeking to enter or exit a place of religious worship, or the exterior of the occupied motor vehicle seeking to enter or exit a parking lot, to the body of, or any sign or object held by, another person.

3) States 100 feet shall be measured from the entrance or exit of the place of religious worship to the body of, or any sign or object held by, a person.

4) States a first violation of this prohibition is a misdemeanor, punishable by up to six months in county jail, or a fine not more than $1,000, or by both imprisonment and fine.

5) States a second or subsequent violation of this prohibition is a misdemeanor punishable by up to one year in county jail, or by a fine of not more than $5,000, or by both imprisonment and fine.

6) States the provisions of this bill are severable.

7) States the intent of the Legislature as follows: "The Legislature recognizes that access to places of worship is imperative to the free exercise of religion in the State of California. Ensuring the safety and unimpeded access of individuals entering and exiting places of worship is therefore a compelling government interest and essential for the immediate preservation of public peace and safety. Toward that end, this section is aimed at making clear that conduct that intentionally obstructs a person's lawful exercise of that person's

religious freedom under the California Constitution and United States Constitution is unlawful. The Legislature further finds that the protection of persons from deliberate and physical interference with their access to places of worship may be accomplished without infringing on constitutionally protected speech or activity and affirms that its intent is to not seek to favor one viewpoint over another or to limit speech regarding any specific topic."

EXISTING LAW:

1) Defines "crime of violence" as an offense that has as an element the use, attempted use, or threatened use of physical force against the person or property of another. (Pen. Code, § 423.1, subd. (a).)

2) Defines "interfere with" as meaning to restrict a person's freedom of movement. (Pen. Code, § 423.1, subd. (b).)

3) Defines "intimidate" as meaning to place a person in reasonable apprehension of bodily harm to herself or himself or to another. (Pen. Code, § 423.1, subd. (c).)

4) Defines "nonviolent" as meaning to conduct that would not constitute a crime of violence. (Pen. Code, § 423.1, subd. (d).)

5) Defines "physical obstruction" as rendering ingress to or egress from a reproductive health services facility or to or from a place of religious worship impassable to another person, or rendering passage to or from a reproductive health services facility or a place of religious worship unreasonably difficult or hazardous to another person. (Pen. Code, § 423.1, subd. (e).)

6) Defines "reproductive health services" as meaning reproductive health services provided in a hospital, clinic, physician's office, or other facility and includes medical, surgical, counseling, or referral services relating to the human reproductive system, including services relating to pregnancy or the termination of a pregnancy. (Pen. Code, § 423.1, subd. (f).)

7) Defines "reproductive health services client, provider, or assistant" as a person or entity that is or was involved in obtaining, seeking to obtain, providing, seeking to provide, or assisting or seeking to assist another person, at that other person's request, to obtain or provide any services in a reproductive health services facility, or a person or entity that is or was involved in owning or operating or seeking to own or operate, a reproductive health services facility. (Pen. Code, § 423.1, subd. (g).)

8) States "reproductive health services facility" includes a hospital, clinic, physician's office, or other facility that provides or seeks to provide reproductive health services and includes the building or structure in which the facility is located. (Pen. Code, § 423.1, subd. (h).)

9) Provides that every person who, except a parent or guardian acting towards his or her minor child or ward, commits any of the following acts shall be subject to the punishment, as specified (Pen. Code, § 423.2, subds. (a)-(f)):

   a) By force, threat of force, or physical obstruction that is a crime of violence, intentionally injures, intimidates, interferes with, or attempts to injure, intimidate, or interfere with,

any person or entity because that person or entity is a reproductive health services client, provider, or assistant, or in order to intimidate any person or entity, or any class of persons or entities, from becoming or remaining a reproductive health services client, provider, or assistant; or

b) By force, threat of force, or physical obstruction that is a crime of violence, intentionally injures, intimidates, interferes with, or attempts to injure, intimidate, or interfere with any person lawfully exercising or seeking to exercise the First Amendment right of religious freedom at a place of religious worship; or

c) By nonviolent physical obstruction, intentionally injures, intimidates, or interferes with, or attempts to injure, intimidate, or interfere with, any person or entity because that person or entity is a reproductive health services client, provider, or assistant, or in order to intimidate any person or entity, or any class of persons or entities, from becoming or remaining a reproductive health services client, provider, or assistant; or

d) By nonviolent physical obstruction, intentionally injures, intimidates, or interferes with, or attempts to injure, intimidate, or interfere with, any person lawfully exercising or seeking to exercise the First Amendment right of religious freedom at a place of religious worship; or

e) Intentionally damages or destroys the property of a person, entity, or facility, or attempts to do so, because the person, entity, or facility is a reproductive health services client, provider, assistant, or facility; or

f) Intentionally damages or destroys the property of a place of religious worship. (Pen. Code, § 423.2.)

10) Makes a first violation involving nonviolent physical obstruction a misdemeanor, punishable by imprisonment in a county jail for a period of not more than six months and a fine not to exceed $2,000. (Pen. Code, § 423.3, subd. (a).)

11) Makes a second or subsequent violation involving violation involving nonviolent physical obstruction a misdemeanor, punishable by imprisonment in a county jail for a period of not more than six months and a fine not to exceed $5,000. (Pen. Code, § 423.3, subd. (b).)

12) Makes a first violation involving force, threat of force, or physical obstruction that is a crime of violence or intentional property damage a misdemeanor, punishable by imprisonment in a county jail for a period of not more than one year and a fine not to exceed $25,000. (Pen. Code, § 423.3, subd. (c).)

13) Makes a second or subsequent violation involving force, threat of force, or physical obstruction that is a crime of violence or intentional property damage a misdemeanor, punishable by imprisonment in a county jail for a period of not more than one year and a fine not to exceed $50,000. (Pen. Code, § 423.3, subd. (d).)

14) Provides that in imposing fines pursuant to this section, the court shall consider applicable factors in aggravation and mitigation set out in Rules of the California Rules of Court, and shall consider a prior violation of the federal Freedom of Access to Clinic Entrances Act of

1994 (18 U.S.C. Sec. 248), or a prior violation of a statute of another jurisdiction that would constitute a violation of Section 423.2 or of the federal Freedom of Access to Clinic Entrances Act of 1994, to be a prior violation of Section 423.2. (Pen. Code, § 423.3, subd. (e).)

15) States that this title establishes concurrent state jurisdiction over conduct that is also prohibited by the federal Freedom of Access to Clinic Entrances Act of 1994 (18 U.S.C. Sec. 248), which provides for more severe misdemeanor penalties for first violations and felony-misdemeanor penalties for second and subsequent violations. State law enforcement agencies and prosecutors shall cooperate with federal authorities in the prevention, apprehension, and prosecution of these crimes, and shall seek federal prosecutions when appropriate. (Pen. Code, § 423.3, subd. (f).)

16) No person shall be convicted under this article for conduct in violation of Section 423.2 that was done on a particular occasion where the identical conduct on that occasion was the basis for a conviction of that person under the federal Freedom of Access to Clinic Entrances Act of 1994 (18 U.S.C. Sec. 248). (Pen. Code, § 423.3, subd. (g).)

17) Requires the Attorney General, under the Reproductive Rights Law Enforcement Act to carry out certain functions relating to anti-reproductive-rights crimes in consultation with, among others, subject matter experts. The Attorney General must:

    a) Collect information relating to anti-reproductive-rights crimes, including, but not limited to, the threatened commission of these crimes and persons suspected of committing these crimes or making these threats;

    b) Direct local law enforcement agencies to provide to the Department of Justice (DOJ), in a manner that the Attorney General prescribes, any information that may be required relative to anti-reproductive-rights crimes, as specified; and,

    c) Develop a plan to prevent, apprehend, prosecute, and report anti-reproductive-rights crimes, and to carry out the legislative intent. (Pen. Code, § 13777, subds. (a) & (b).)

18) Requires the Attorney General to implement this section to the extent the Legislature appropriates funds in the Budget Act or another statute for this purpose. (Pen. Code, § 13777, subds. (c).)

19) Requires the Commission on the Status of Women and Girls to convene an advisory committee that consists of members of the organizations identified as subject matter experts. Requires the advisory committee to make two reports to specified legislative entities, the POST, and the Commission on the Status of Women and Girls, the first by December 31, 2007, and the 2nd by December 31, 2011, to evaluate the implementation of the act and making recommendations. (Pen. Code, § 13777.2, subd. (a)-(c).)

20) Requires POST to develop a two-hour telecourse on anti-reproductive-rights crimes and make the telecourse available to all California law enforcement agencies and to the advisory committee. (Pen. Code, §§ 13777.2, subd. (d) & 13778, subd. (a).)

21) Makes it a misdemeanor to, by force or threat of force, willfully injure, intimidate, interfere with, oppress, or threaten another person in the free exercise or enjoyment of a right or privilege secured by the Constitution or laws of this state or by the Constitution or laws of the United States, in whole or in part, because of one or more of specified actual or perceived characteristics of the victim, including disability, gender, religion, race, or sexual orientation. (Pen. Code, §§ 422.6, subd. (a) & 422.55, subd. (a).)

22) Makes it a misdemeanor to knowingly deface, damage, or destroy the real or personal property of another person for the purpose of intimidating or interfering with the free exercise or enjoyment of a right or privilege secured by the Constitution or laws of this state or by the Constitution or laws of the United States, in whole or in part, because of one or more of the same actual or perceived characteristics of the victim. (Pen. Code, §§ 422.6, subd. (b) & 422.55, subd. (a).)

FISCAL EFFECT: Unknown

COMMENTS:

1) **Author's Statement**: According to the author, "Amidst rising antisemitism and hate, many Jewish People fear simply going to synagogue. A recent study from AJC reported that 26% of Jewish people in the United States don't feel safe attending Jewish institutions. Additionally, the Anti-Defamation League reported in 2024 that antisemitic incidents have increased across the United States by 344% over the last five years. Other faith communities have also experienced dramatic increases in hate incidents and violence in recent years. Recently there has also been a disturbing pattern of protests outside houses of worship. AB 2664 establishes a zone around the entrances of houses of worship, within which protesters may not intentionally approach congregants without consent. These protections are designed to ensure that people can enter and exit religious institutions without being obstructed or intimidated. Bubble zones are a common-sense step to ensure people of all faiths can gather safely and freely. This bill takes a balanced approach that has existed for decades in other states and localities, carefully protecting both freedom of worship and freedom of speech. Similarly structured laws have long been in place across the country and have been upheld by the U.S. Supreme Court multiple times, recognizing that tailored protections at entrances can coexist with robust First Amendment rights."

2) **First Amendment Generally:** First Amendment provides that "Congress shall make no law . . . abridging the freedom of speech." (U.S. Const, 1st Amend.) 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.)

   Peaceful picketing and leafletting are expressive activities involving speech protected by the First Amendment. (*United States v. Grace* (1983) 461 U.S. 171, 172.) Public ways and sidewalks occupy a special position in terms of First Amendment protection because of their historic role as sites for discussion and debate. (*Ibid*.)

> These places - which we have labeled "traditional public places" - have immemorially been held in trust for the use of the public and, time out of mind, have been used for purposes of assembly, communicating thoughts between citizens, and discussing public questions. (*Pleasant Grove City v. Summum* (2009) 555 U.S. 460, 469, *quoting Perry Ed. Assn. v. Perry Local Educators' Assn*. (1983) 460 U.S. 37, 45; *McCullen v. Coakley* (2014) 573 U.S. 464, 476.)

However, publicly owned or operated property does not become a "public forum" simply because members of the public are permitted to come and go at will. (See *Greer v. Spock* (1976) 424 U.S. 828, 836.) Although whether the property has been "generally opened to the public" is a factor to consider in determining whether the government has opened its property to the use of the people for communicative purposes, it is not determinative of the question. We have regularly rejected the assertion that people who wish "to propagandize protests or views have a constitutional right to do so whenever and however and wherever they please." (*Adderley v. Florida* (1966) 385 U.S. 39, 47-48; *Cox v. Louisiana* (1965) 379 U.S. 536, 554-55)

However, the court may afford the government somewhat wider leeway to regulate features of speech unrelated to its content.

> Even in a public forum the government may impose reasonable restrictions on the time, place, or manner of protected speech, provided the restrictions 'are justified without reference to the content of the regulated speech, that they are narrowly tailored to serve a significant governmental interest, and that they leave open ample alternative channels for communication of the information. (*Ward v. Rock Against Racism* (1989) 491 U.S. 781, 791 *quoting Clark v. Community for Creative Non-Violence* (1984) 468 U.S. 288, 293; *McCullen v. Coakley*, 573 U.S. at 477.)

This statute appears content neutral, and as explained below, is almost identical to a statute that was validated, at least as it pertains to reproductive healthcare clinics, by the U.S. Supreme Court in another case. As a content neutral statute, it is likely the court will review it as a time, place, and manner restriction. As such, if it is narrowly tailored to serve a significant government interest and leaves open ample alternative channels for communication of information, it may be approved.

Since it is likely a time, place, and manner restriction, the inquiry becomes highly fact intensive. Two cases stand on either end of the Court's determination of what legal scholars have called the "floating buffer zone": *Colorado v. Hill* (2000) 530 U.S. 703 (which is the model for this statute) and *McCullen v. Coakley, supra*, 573 U.S. 464.

Additionally, it is worth noting, those statutes regulate communication around reproductive healthcare clinics and the Court's stated reasoning for approving the significant governmental interest in Colorado's statute was "the potential trauma associated with **confrontational protests for patients** who may be especially vulnerable both physically and

emotionally when attempting to enter such a facility." (*Colorado v. Hill, supra*, 530 U.S. at 715.) (Emphasis added.) This statute revolves around "places of religious worship."

3) **Colorado v. Hill and Floating Buffer Zones**: In *Colorado v. Hill* (hereinafter "*Hill*"), the Supreme Court upheld a Colorado statute that is substantially similar to this bill. It prohibited, within 100 feet of a reproductive healthcare facility "knowingly approaching" within 8 feet of another person, without their consent, for purposes of passing leaflets, handbills, displaying signs, or engaging in oral protest or education. (See Colo. Rev. Stat. § 18-9-122; *Hill, supra,* 503 U.S. at 730.)

   The Court in *Hill* found: (a) the state had a legitimate interest in protecting the health and safety of its citizens' "unimpeded access to healthcare facilities"; (b) the statute was a valid time, place, and manner restriction that leaves ample alternative channels for communication; and is content-neutral. Specifically, the Court in *Hill* was convinced that the state had a legitimate interest that "may justify a special focus on unimpeded access to health care facilities and the avoidance of potential trauma to patients associated with confrontational protests." (*Hill, supra,* 503 U.S. at 715, citing *Madsen v. Women's Health Center, Inc.* (1994) 512 U.S. 753; *NLRB v. Baptist Hospital, Inc.* (1979) 442 U.S. 773.) Furthermore, the Court focused on the ease of alternate channels for communication including oral statements from beyond the eight-foot bubble. While there is considerable bluster among some circuits about *Hill*, it still controls, and even courts that do not think it is constitutional must admit it is currently controlling.[1]

4) **McCullen v. Coakley:** In 2014, nearly 15 years after *Hill*, a unanimous Court agreed in *McCullen v. Coakley, supra,* 503 U.S. 464, that a Massachusetts law prohibiting a person from standing on a public sidewalk within 35 feet of an abortion facility was unconstitutional. However, there was a strong disagreement between Chief Justice Robert's decision on behalf of five justices (C.J. Roberts, JJ. Ginsburg, Breyer, Sotomayor, and Kagan) and the concurring opinions filed by Justices Kennedy, Scalia and Alito. The majority opinion agreed that the law was neither content nor viewpoint based and, therefore, was not subject to strict scrutiny, but found it unconstitutional because it was not narrowly tailored. By contrast, the concurring justices would have struck the law down because they thought the law was either content or viewpoint based.[2]

> Even though an act is content neutral, it still must be narrowly tailored to serve a significant governmental interest to comply with the First Amendment. The tailoring requirement does not

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[1] The author submitted a ruling from the Southern District of California denying a preliminary injunction on a San Diego ordinance that is similar to this bill except it covers health care facilities, places of worship, and school grounds. *(Blythe v. City of San Diego*, Case No.: 24-cv-02211-GPC-DDL (S.D. Cal January 14, 2025).) It is worth pointing out that Judge Curiel did not directly address issues pertaining directly to places of worship – namely in instances where places of worship are directly accessed from sidewalks or where it impedes the free exercise of religion. For instance, in Sacramento, both Blessed Sacrament and St. Francis are accessed from a square or sidewalk. A variety of demonstrations may be occurring in and around those churches, but having nothing to do with the churches. However, if a group of Lutherans or Evangelicals got together and wanted to pass out literature about turning away from the liturgy or denying the Catholic Eucharist – it may present a challenge based on denial of the free exercise of religion.

[2] See https://firstamendment.mtsu.edu/article/mccullen-v-coakley/

> simply guard against an impermissible desire to censor. The government may attempt to suppress speech not only because it disagrees with the message being expressed, but also for mere convenience. Where certain speech is associated with particular problems, silencing the speech is sometimes the path of least resistance. But by demanding a close fit between ends and means, the tailoring requirement prevents the government from too readily sacrificing speech for efficiency. … **Handing out leaflets in the advocacy of a politically controversial viewpoint is the essence of First Amendment expression; no form of speech is entitled to greater constitutional protection.** When the government makes it more difficult to engage in these modes of communication, it imposes an especially significant First Amendment burden. (Emphasis added.) (*McCullen, supra,* 573 U.S. at pp. 476 and 489.)

The Massachusetts statue was slightly different than the instant statute in that it established a 35 foot bubble, but it is important to note that the Court made very little reference to *Hill* and at least three Justices expressed a desire to overrule *Hill*. The Majority expressed the judgment that the Massachusetts statute criminalized simply standing, while not speaking or holding a sign. It pointed out that McCullen's advocacy was neither aggressive nor vitriolic. She simply stood near the entrance and handed leaflets and pamphlets to women entering the facility.

Furthermore, the majority held that the Massachusetts law, which created a standing buffer, prohibited people from communicating from the sidewalk and was broader than necessary to achieve the government objective.

> Petitioners wish to converse with their fellow citizens about an important subject on the public streets and sidewalks—sites that have hosted discussions about the issues of the day throughout history. Respondents assert undeniably significant interests in maintaining public safety on those same streets and sidewalks, as well as in preserving access to adjacent healthcare facilities. But here the Commonwealth has pursued those interests by the extreme step of closing a substantial portion of a traditional public forum to all speakers. It has done so without seriously addressing the problem through alternatives that leave the forum open for its time-honored purposes. The Commonwealth may not do that consistent with the First Amendment. (*McCullen*, 573 U.S, at 496-497.)

Therefore, these two cases: *Hill* and *McCullen* – 15 years apart – set the stage for determining whether an eight foot floating buffer within 100 feet of a place of worship is: (a) a content and viewpoint neutral law subject to intermediate scrutiny; and (b) narrowly tailored to achieve the government objective.

5) **Cases Questioning Hill in Recent Years:** There have been a growing number of circuit courts that have expressed skepticism about whether *Hill* was rightly decided and whether it

should be overruled. First, the 7th Circuit in two cases, *Coalition for Life v. City of Carbondale* and *Price v. Chicago*, seem to ask the Court to overrule *Hill*.

> In *Hill*, the Supreme Court upheld a similar "bubble zone" Colorado statute as a content-neutral time, place and matter restriction. *Hill*, 530 U.S. at 719-720. More recently, this Circuit upheld a similar "bubble zone" ordinance enacted by the *City of Chicago* after holding that *Hill* remained good law and directly controlled the issue, even though *Hill* was decided more than twenty years ago and appears inconsistent with other Supreme Court decisions. *Price*, 915 F.3d at 1119 [‘While the Supreme Court has deeply unsettled *Hill*, it has not overruled the decision. So, it remains binding on us.’]. (*Coal. for Life St. Louis v. City of Carbondale* (S.D. Ill. July 6, 2023, No. 23-cv-01651-SPM) 2023 U.S. Dist. LEXIS 116179, at *1-2, affirmed by 2024 U.S. App. LEXIS 5657 (7th Cir.); *Price v. City of Chicago* (7th Cir. 2019) 915 F.3d 1107, 1109.)

The 7th Circuit expressed frustration with *Hill*, but conceded it was still binding precedent, even after *McCullen*, as explained below. The court also held that Chicago’s ordinance was somewhat different. To date, the Supreme Court has applied the intermediate standard of scrutiny to abortion-clinic buffer zones, with mixed results.

> [Following *Hill*], [n]o new buffer-zone case reached the Court until McCullen in 2014. At issue was a Massachusetts law imposing a fixed 35-foot buffer zone around the entrance, exit, and driveway of every abortion clinic in the state. [Internal citation omitted.] Certain persons were exempt and could freely enter the zone: those entering or leaving the clinic; employees or agents of the clinic; law enforcement, firefighters, construction and utility workers, and other municipal agents; and persons using the sidewalk or public way to reach a destination other than the clinic. Everyone else was kept out on pain of criminal penalty.
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> But the Massachusetts buffer-zone law did not survive intermediate scrutiny. Citing *Schenck* and *Madsen* (but not *Hill*), the Court held that the Commonwealth's safety and access objectives were sufficiently weighty under the intermediate standard of review. [Internal citation omitted.] ‘At the same time,’ however, ‘the buffer zones impose serious burdens on [the sidewalk counselors'] speech.’ [Internal citation omitted]. Relying again on *Schenck*, the Court observed that the fixed 35-foot buffer zone made it ‘substantially more difficult’ for sidewalk counselors to "distribute literature to arriving patients" and to engage in the kind of personal and compassionate conversations required for their messages to be heard. (*Price v. City of Chicago* (7th Cir. 2019) 915 F.3d 1107, 1115-118.)

However, the U.S. Supreme Court, in 2025, denied certiorari on both *Coalition for Life v. City of Carbondale, supra*, and the other case from the 3rd Circuit, *Turco v. City of Englewood v. New Jersey* (3rd. Cir. 2019) 935 F.3d 155, leaving *Hill* intact.

> Given the Court's analysis in *Hill*, we simply cannot conclude that the eight-foot buffer zones established under the Ordinance posed a severe burden on speech, and the record is clearly inadequate to support such a conclusion as a matter of law. Rather, we conclude that there are material issues of genuine fact regarding the extent to which Turco retained the ability to communicate despite enactment of the eight-foot buffer zone. (*Turco v. City of Englewood* (3d Cir. 2019) 935 F.3d 155, 167.)

The U.S. Supreme Court faced two questions deciding whether to grant certiorari on *Turco* and *Price*: (a) whether the Cities' speech-free buffer zones, including zones outside an abortion clinic, violate the First Amendment; and (b) whether the court should overrule *Hill v. Colorado*. As noted above, the Court denied cert. on both cases. However, Justices Thomas and Alito both dissented and would have granted cert.

> A number of us have since described [Hill] decision as an 'absurd,' 'defunct,' 'erroneous,' and 'long discredited' 'aberration' from the rest of our First Amendment jurisprudence.[3] We have long stopped applying *Hill*. See, e.g., City of Austin, 596 U. S., at 76, 142 S. Ct. 1464, 212 L. Ed. 2d 418. And, a majority of this Court recently acknowledged that Hill "distorted [our] First Amendment doctrines." Dobbs v. Jackson Women's Health Org., 597 U. S. 215, 287, 142 S. Ct. 2228, 213 L. Ed. 2d 545, and n. 65 (2022). Following our repudiation in *Dobbs*, I do not see what is left of *Hill*. Yet, lower courts continue to feel bound by it. The Court today declines an invitation to set the record straight on Hill's defunct status. (*Coal. Life v. City of Carbondale* (2025) 145 S.Ct. 537, 538.)

Dobbs, a case that denied Americans the constitutional right of privacy in reproductive choices, and in pure dicta, shaded *Hill*:

> They have flouted the ordinary rules on the starts here severability of unconstitutional provisions, as well as the rule that statutes should be read where possible to avoid unconstitutionality. And they have distorted First Amendment doctrines. (See *Dobbs, supra,* 597 U. S. at 286-87, fn. 65.)

To be clear, Justices Thomas and Alito should be viewed as outliers on issues related to reproductive health as they have expressed open hostility to choice in numerous aspects of

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[3] See *City of Austin v. Reagan Nat. Advertising of Austin, LLC* (2022) 596 U. S. 61, 86-87, 92, 103-104 (Thomas, J., joined by Gorsuch and Barrett, JJ., dissenting) (internal quotation marks omitted).

life, including abortion and even birth control.[4] But this statute is not a floating buffer around a reproductive healthcare facility. It is a buffer around places of worship.

6) **Practical Application:** Whether the Court approves this statute, assuming it is enacted and litigated, is pure speculation. Additionally, it seems less likely that a court will view this bill as a content- or viewpoint-based regulation, and will uphold the measure against accusations it violates the First Amendment if it is narrowly tailored to achieve a significant government interest.

   A significant government interest appears readily apparent in this case if we consider the rise of violence against non-Christian religions like Judaism and Islam. According to information provided by the author:

> Amidst rising antisemitism and hate, many Jewish People fear simply going to synagogue. A recent study from AJC reported that 26% of Jewish people in the United States don't feel safe attending Jewish institutions.[5] Additionally, the Anti-Defamation League reported in 2024 that antisemitic incidents have increased across the United States by 344% over the last five years. A disturbing pattern of protests outside houses of worship – including incidents at Wilshire Boulevard Temple and Adas Torah in Los Angeles – have made it clear that this fear is real. While this threat is particularly felt by the Jewish community, safe access to places of worship must be protected for all faiths and religions.

   According to the New York Times,

> Many synagogues around the country, already accustomed to having a heavy security presence, increased precautions after the United States and Israel struck Iran in late February, Mr. Segal said. Law enforcement agencies have also increased attention to Jewish institutions.
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> 'For anybody who hasn't reached out to their law enforcement partners, now is the time,' Mr. Segal said, referring to synagogues and other Jewish organizations.

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[4] *Dobbs v. Jackson Women's Health Org.* (2022) 597 U.S. 215, 241, 273 ["Not only was there no support for such a constitutional right until shortly before Roe, but abortion had long been a crime in every single State. At common law, abortion was criminal in at least some stages of pregnancy and was regarded as unlawful and could have very serious consequences at all stages. American law followed the common law until a wave of statutory restrictions in the 1800s expanded criminal liability for abortions. By the time of the adoption of the Fourteenth Amendment, three-quarters of the States had made abortion a crime at any stage of pregnancy and the remaining States would soon follow. Roe either ignored or misstated this history, and Casey declined to reconsider Roe's faulty historical analysis. It is therefore important to set the record straight.].)

[5] https://www.ajc.org/AntisemitismReport2025/AmericanJews; https://www.adl.org/resources/report/audit-antisemitic-incidents-2024

> A recent survey by the American Jewish Committee, a nonprofit, found that 91 percent of American Jews say they feel less safe in the United States in the wake of high-profile attacks last year, including the arson attack at the home of Pennsylvania's governor, Josh Shapiro, and the killing of two Israeli Embassy aides last spring outside a Jewish museum in Washington. More than half said that they had changed their behavior out of fear. On March 5, Secure Community Network, an organization that provides security consulting for Jewish institutions in North America, sent out a bulletin to hundreds of law enforcement agencies around the country warning that threats would rise significantly after the start of war in the Middle East.[6]

Furthermore, since 2025, there has been a rise in violence here in the United States against Muslims. As reported by the Center for the Study of Organized Hate:

> "Since the start of 2026, harmful content targeting Muslims across social media platforms has escalated at an alarming pace. For much of January and February, Islamophobic posts maintained a steady and persistent presence, continuing the deeply hostile climate that has built since the start of the Israeli war on Gaza in October 2023. The onset of the US-Israel war on Iran on February 28 accelerated this trend sharply, sending Islamophobic content targeting Muslim Americans to new extremes. Political rhetoric has compounded the crisis. Senior Trump administration officials and some members of Congress have framed the war in overtly religious terms, drawing on Christian nationalist narratives, and inflaming anti-Muslim hatred. Secretary of War Pete Hegseth described Iran as driven by 'prophetic Islamic delusions.' …
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> House Speaker Mike Johnson, while referring to Iran, stated that 'we're the Great Satan in their analogy and their misguided religion.' Muslim civil rights groups have condemned such language as dangerous and inflammatory. Political leaders at the highest levels framing a military campaign in language that indicts an entire faith and draws on Christian nationalist rhetoric contributes to an environment in which Muslims and those perceived to be Muslim become targets of suspicion, hostility, and violence. … Beyond dehumanization, [CSOH] found social media posts that cross the line from hatred into explicit incitement to violence, including direct calls to exterminate Muslims. Some posts frame the elimination of Muslims as an act of self-defense or civilizational survival, lending a veneer of

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[6] Graham, "*Attack on Synagogue Comes Amid Significant Rise in Antisemitic Incidents*," New Tork Times, March 12, 2026, located at https://www.nytimes.com/2026/03/12/us/antisemitism-synagogue-attack-michigan.html

> patriotic duty to the genocidal rhetoric. In the current climate, this content functions as a call to action directed at a community that is already experiencing rising rates of bias, harassment, discrimination, and hate-fueled violence."

Quelling violence against any religion in the United States, a place that was founded, in part, on religious tolerance and the free exercise of religion, is perhaps one of the most important interests of our government and certainly significant. However, the most challenging question is whether or not this proposal is sufficiently narrowly tailored to ensure alternate channels of expression and does not impose serious burdens on speech that is beyond what is necessary to achieve the government interest.

First, the definition of "place of religious worship" includes any building, structure, or space that is used primarily for religious worship activities or to provide religious education or instruction. The definition also includes the parking lot, parking lot entrance, and driveway entrance of any such building or structure.

As explained above, the author's statement of harm this bill seeks to remedy explains there is a rise in antisemitic attacks in California and the U.S. However, at the outset of the proposed statute it refers to "ensuring the safety and unimpeded access of individuals entering and exiting places of worship." Presumably, the author does not intend a court to assume this statute only applies to places of worship affiliated with Judaism.

This may be too broad to be narrowly tailored since it could hinder speech having nothing at all to do with people coming in and out of a place of worship or an area around a place of worship. For instance, as noted in *McCullen*, the Court seemed troubled by a statute that prohibited even quietly standing by and handing out leaflets or handbills if closer than eight feet and within 100 feet from an entrance. (*McCullen*, 573 U.S, at 496-497.) Additionally, like *McCullen*, other people, including delivery people, pedestrians, and possibly people affiliated with other parts of a shared building, could all obstruct an entrance or exit of a place of worship with no concern for violating this statute.

The Court in *McCullen* noted that ordinary abatement efforts could be deployed to avoid obstruction from entering or exiting the place of religious worship. If the stated government interest is avoiding obstruction from places of worship, the desire for the statute seems to hold less weight. Avoiding obstruction could be handled via local zoning ordinances, prohibitions against solicitation (similar to those around private businesses), and traffic enforcement.

Moreover, it is already a crime to intimidate, threaten, or otherwise interfere with a person's right in the free exercise of religion and when entering and exiting a place of worship. The Freedom of Access to Clinic and Church Entrances Act created new crimes for videotaping, photographing, or recording patients or providers within 100 feet of the facility (i.e., the "buffer" zone) or disclosing or distributing those images. It also increased misdemeanor penalties for violations of the FACCE Act and expanded online privacy laws and peace officer trainings relative to anti-reproduction-rights offenses. (See Pen. Code, § 423.1, et seq.; Gov. Code, § 6218.)

Finally, because the proposed statute includes parking lots, it could prohibit speech having nothing to do with the place of worship and be attached to another building. Many places of worship share space and parking lots with other buildings. For instance, Blessed Sacrament in the City of Sacramento faces both commercial and residential buildings. If a person wished to display a sign in the window of a residence or business that read *"PAPAL AUTHORITY IS HERESY"* or even a strictly political sign like *"PROTECT ALL LGBTQIA PEOPLE"* a court may be concerned with interfering with the business owner's or resident's right to express their view in the form of a sign attached to their business or home.

There is little concern of obstruction in that case since the sign is affixed to a window in close proximity to the place of worship and there is no immediate threat of violence, harassment, or intimidation. Given the proximity of some places of worship to public streets and sidewalks, it could be something as innocuous as handing out menus for local restaurants. Accordingly, a court may find that the statute is too broad and prohibits more than just the speech at issue in a valid time, place, and manner restriction. However, as stated above, this is a highly fact-intensive analysis, and it is pure speculation to opine how a court may rule.

7) **New Felony and Jail Overcrowding:** This bill creates both a new misdemeanor and an alternate misdemeanor-Realignment felony for breaching the floating buffer zone of eight feet within 100 feet of a place of religious worship. It also includes fines ranging between $10,000 and $25,000. Existing law requires that any person who is sentenced to a Realigned felony is either sentenced to county jail or state prison, depending on whether they have a prior conviction for a serious or violent felony or registerable sex offense. (See Pen. Code, § 1170, subd. (h)(5).)

AB 109, The Criminal Justice Realignment Act, was implemented in 2011 in response to prison overcrowding. In part, it shifted to county jails the responsibility for incarcerating lower-level offenders previously incarcerated in state prison. (Pen. Code, § 1170, subd. (h).) This, however, increased the pressure on county jails to house larger populations and to make difficult decisions about how to manage their growing jail populations. These pressures manifest differently by county based on a number of factors including jail capacity and whether the county jail system is operating under a court-mandated population cap. Such caps have been in place in some counties long before *Brown v. Plata* addressed state prison overcrowding. (Sarah Lawrence, Court-Ordered Population Caps in California County Jails (Dec. 2014).)[7]

In 2024, CalMatters published an article explaining that jails are facing increasing death rates even as the population may be declining. As the article explains, most of the people who died were pre-trial inmates – meaning they have not been convicted. Aside from natural causes, the two major causes of death for inmates in county jail were suicide, followed by overdoses, particularly fentanyl. The Board of State and Community Corrections ("BSCC") have repeatedly warned about failures in the county jails and refusal by locals to adhere to required state standards.

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[7] https://law.stanford.edu/search-sls/?q_as=california%20county%20jails.

Until recently, BSCC was not even notified about deaths inside the county-run lockups. Nor was the pandemic the driving factor: California in 2022 had the smallest share of deaths due to natural causes in the past four decades. A surge in overdoses drove the trend of increasing deaths. And almost every person who died was waiting to be tried. A previous CalMatters investigation found that three-quarters of those held in county jails had not been convicted or sentenced, with many awaiting trial more than three years. (Duara and Kimelman, *"California jails are holding thousands fewer people but far more people are dying in them,"* Cal Matters (March 25, 2024).)[8]

The Vera Institute noted that in Los Angeles County, "…budgeted $1.3 billion to detain people held by the Los Angeles County Sheriff's Department. Total jail spending amounts to $134.22 per county resident annually."[9] County jails are overcrowded in many counties and have an alarming rate of inmate death. According to a BSCC summary of community insights on California jails, "Individuals described deeply disturbing conditions in California's jails. Facilities are dirty and incarcerated persons are responsible for their upkeep. Respondents described overcrowded and unsanitary conditions with rodents, bugs, urine, and feces.

Based on the precarious state of California's jails post-Realignment, it is critical that the state take care in deciding on new crimes wherein an inmate may be sentenced to up to three years in county jail if convicted of a felony, to avoid exacerbating the already heavy burden of ensuring constitutional prisons and jails.

8) **Argument in Support**: According to *Jewish California*, "The Anti-Defamation League reported in 2024 that antisemitic incidents have surged 307% over the last five years in California. As a result, Jewish community members are increasingly scared to go to synagogue. According to a recent American Jewish Committee study, 26% of Jewish Americans do not feel safe attending Jewish institutions.

"Here in California, we have witnessed this fear. Troubling protests outside Wilshire Boulevard Temple and Adas Torah in Los Angeles have left congregants feeling harassed and intimidated simply for trying to attend synagogue. We know similar incidents targeting other faith communities are increasing as well, threatening our collective First Amendment right to worship. AB 2664 responds to this crisis with a targeted, constitutionally sound solution.

"The bill establishes a 100-foot "Safe Worship Zone" around the entrances of houses of worship, within which protesters may not approach congregants without their consent. These protections ensure that people can enter and leave religious institutions without being confronted, surrounded, obstructed, or intimidated. This approach is not new. Bubble zone laws structured in similar ways have long been law across the country and have been upheld by the U.S. Supreme Court, which has consistently found this law to be a proper balance between two fundamental rights: the right to protest and the right to worship freely.

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[8] https://calmatters.org/justice/2024/03/death-in-california-jails/.
[9] https://www.vera.org/publications/what-jails-cost-cities/los-angeles-ca

"Critically, this bill protects Californians of all faiths. No congregant should have to face intimidation to practice their faith. At a moment of heightened tensions impacting many faith communities, AB 2664 makes clear that California will act to protect religious life and the dignity of all who engage with their faith."

9) **Argument in Opposition**: According to the *ACLU California Action*, "We strongly believe in the principle that free expression for ourselves requires free expression for others, as the First Amendment guarantees us all the essential right to assemble peacefully to advocate for any cause. From speaking in public, through books and radio to film, television, and the internet — we have consistently fought to make sure people have the right to say, think, read, and write whatever they want without fear of government reprisal.

"The United States Supreme Court has repeatedly emphasized that public ways and sidewalks "occupy a 'special position in terms of First Amendment protection' because of their historic role as sites for discussion and debate."[10] Since "time out of mind," these places have been used "for purposes of assembly, communicating thoughts between citizens, and discussing public questions."[11] As currently drafted, AB 2664 defines a "place of religious worship" to be any space used primarily for "religious worship activities," which explicitly includes a "parking lot [and] . . . driveway entrances of any such . . . space."

"By restricting speech within 100 feet of places of religious worship, the bill would needlessly include public sidewalks, and in many places, people's private residence if they live within 100 feet of a place of religious worship, or its parking lot. Furthermore, this bill would prohibit within a buffer zone the ability to "display a sign," without ever approaching a person without their consent. If AB 2664 were to become law, this may include a person's private property who may have a sign with a political message visible to the public and suppress their political speech.

"In *McCullen v. Coakley* the Supreme Court made clear that ordinances creating buffer zones around specific locations within public for a satisfy the First Amendment only if the government has compiled a substantial record justifying the need for such buffer zone. Specifically, the government needs to show that (1) there is a significant history of problems, such as illegal behavior that interferes with people's ability to access the locations covered by the ordinance (2) the government has employed other more narrowly targeted means to try address those problems, and (3) the alternative means have failed to achieve the government's objective.

"The Court recognized that Massachusetts had "significant interests in maintaining public safety on . . . streets and sidewalks, as well as in preserving access to adjacent healthcare facilities."[12] But the Court nonetheless ruled that the law and the 35 foot buffer zone — which was much smaller than the buffer zone proposed in this bill — was not narrowly tailored to address this interest, and instead constituted the "extreme step of closing a substantial portion of a traditional public forum to all speakers."[13]

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[10] *McCullen v. Coakley*, 573 U.S. 464, 476 (2014) (quoting *United States v. Grace*, 461 U.S. 171, 180 (1983)).
[11] *Id.* (internal quotations omitted)
[12] *Id*. at 497.
[13] *Id.*

"Moreover, courts are particularly concerned about these kinds of buffer zones because they target "one-on-one communication, which is the most effective, fundamental, and perhaps economical avenue of political discourse."[14] Even if the government could establish a sufficient record of problems at all "places of religious worship" covered by this bill, it would still need to show that it tried to employ other more narrowly tailored methods to address them without success before it could adopt a buffer zone that complies with the First Amendment.

"For example, if the government has identified problems with people blocking others from entering into a place of worship, it will need to show that law enforcement has tried to address the problem through application of legal state or local law.[15] If there is a record of people's being harassed or assaulted at a place of religious worship, the government would need to show that it has attempted to enforce "generic criminal statutes forbidding assault [and] breach of the peace" without success before it could justify adopting an expansive buffer zone covering all of California.[16] Finally, if the government were to identify problems at particular spaces, it could pursue the more narrowly tailored remedy of an injunction at those locations, rather than an overly broad ordinance that would apply to tens of thousands of religious spaces throughout California.[17]

"The enormous breadth of this ordinance is exacerbated by the fact that — by definition — it would restrict peaceful protests on a huge number of public streets and sidewalks, or even people's private residence. Fixed buffer zones pose serious First Amendment problems and should be permitted only in the most limited circumstances. The ACLU continues to ensure that buffer zones are imposed only when there are competing constitutional rights at stake and where protesters are provided with adequate ways to communicate their message. This proposal falls far short of this standard."

10) **Prior Legislation**:

a) AB 2099 (Bauer-Kahan), Chapter 821, Statutes of 2024, increased the penalty for a misdemeanor offense of posting on the internet or social media, threats of violence with the intent that another person imminently use that information to commit a violent crime against a reproductive health care worker to an alternate misdemeanor-felony punishable by up to one year in the county jail or 16 months, 2 or 3 years in addition to the existing $10,000 fine plus penalty assessments.

b) AB 1356 (Bauer-Kahan), Chapter 191, Statutes of 2021, increased penalties for current crimes under the California Freedom of Access to Clinic Act (Act), making them wobblers; created new crimes under the Act directed at videotaping, photographing, or recording patients or providers within 100 feet of the facility ("buffer" zone) or

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[14] *Id.* at 488.
[15] See *id.* at 492 (noting that risks created by blocking entrances "can readily be addressed through existing local ordinances"); see also Cal. Penal Code § 647c ("Every person who willfully and maliciously obstructs the free movement of any person on any street, sidewalk, or other public place or on or in any place open to the public is guilty of a misdemeanor.")
[16] *Id.*
[17] *Id.* at 492 ("We have previously noted the First Amendment virtues of targeted injunctions as alternatives to broad, prophylactic measures.")

disclosing or distributing those images and makes these new crimes wobblers; increases current misdemeanor hate crime penalties making them wobblers; and, updated and expands online privacy laws and peace officer trainings relative to anti-reproduction-rights offenses.

c) SB 661 (Lieu), Chapter 354, Statutes of 2012 prohibited picketing, except on private property, targeted at a funeral during a time period beginning one hour prior to the funeral and ending one hour after the conclusion of the funeral.

d) AB 279 (Huff), of the 2007-08 Legislation Session, would have made it an infraction for a person to disrupt a funeral service for a member or former member of the Armed Services and imposes a $250 fine, in addition to any other penalty provided by law. AB 279 was never heard by Assembly Judiciary Committee.

e) AB 2707 (Keene), of the 2005-06 Legislative Session, would have created a new misdemeanor for picketing within 300 feet of a burial site, mortuary, or church, and allowed a court to award damages including, but not limited to, punitive damages, and may also award injunctive relief, attorney's fees, and any other appropriate relief against a person who violates the above provision. AB 2707 failed passage in this Committee

REGISTERED SUPPORT / OPPOSITION:

Support

30 Years After
Adat Shalom Los Angeles
Agudath Israel of California
Ajc - Los Angeles
Ajc - San Diego
Ajc Northern California
Anti-defamation League
Bay Area Center to Counter Antisemitism
Bay Area Jewish Coalition Education & Advocacy
Beverly Hills Synagogue
California Jewish Democrats
Chai Marin
Contra Costa Jewish Democrats
Hadassah, the Women's Zionist of America, INC.
Hillel of San Diego
Jcc/federation of San Luis Obispo
Jcrc Bay Area
Jcrc, Jewish Long Beach
Jewish California (formerly Jpac)
Jewish Center for Justice
Jewish Center of Berkeley
Jewish Community Relations Council of Sacramento
Jewish Democratic Coalition of the Bay Area
Jewish Family and Children's Services of San Francisco, the Peninsula, Marin and Sonoma Counties

Jewish Family Service LA
Jewish Family Service of San Diego
Jewish Family Service of the Desert
Jewish Family Services of Silicon Valley
Jewish Federation Bay Area
Jewish Federation Los Angeles
Jewish Federation of Greater Santa Barbara
Jewish Federation of Orange County
Jewish Federation of San Diego
Jewish Federation of the Desert
Jewish Federation of the Greater San Gabriel and Pomona Valleys
Jewish Federation of Ventura County
Jewish Silicon Valley
Jfcs East Bay
National Council of Jewish Women CA
Northern California Jewish Labor Committee
Oakland Jewish Alliance
Palo Alto Jewish Alliance
Progressive Zionists of California
Sf Jews in School
Standwithus
Valley Beth Shalom

Opposition

ACLU California Action
California Public Defenders Association
Californians United for a Responsible Budget
Friends Committee on Legislation of California
Interfaith Movement for Human Integrity
Justice2jobs Coalition
LA Defensa
Legal Services for Prisoners With Children
Oakland Privacy
San Francisco Public Defender

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