
SENATE COMMITTEE ON PUBLIC SAFETY

Senator Jesse Arreguín, Chair
2025 - 2026 Regular

Bill No: AB 2664 **Hearing Date:** June 16, 2026
Author: Bauer-Kahan
Version: April 16, 2026
Urgency: No **Fiscal:** Yes
Consultant: AB

Subject: *Places of religious worship: unlawful activities*

HISTORY

Source: Jewish California

Prior Legislation: SB 19 (Rubio), Ch. 594, Stats. of 2025
AB 2282 (Bauer-Kahan), Ch. 397, Stats. of 2022
AB 1356 (Bauer-Kahan), Ch. 191, Stats. of 2021
SB 661 (Lieu), Ch. 354, Stats. of 2012
AB 3103 (Ferguson), Ch. 401, Stats. of 1994
SB 2483 (Russell), Ch. 822, Stats. of 1990

Support: 30 Years After; Adas Torah; Adat Shalom Los Angeles; Anti-Defamation League; Agudath Israel of California; Ahavat Torah; American Jewish Committee – Los Angeles; American Jewish Committee - Northern California; American Jewish Committee - San Diego; B’Nai David-Judea Congregation; Bay Area Center to Counter Antisemitism; Bay Area Jewish Coalition Education & Advocacy; Bel Air Church; Beverly Hills Synagogue; Board of Rabbis of Southern California; Breath of Life Los Angeles; Brotherhood Crusade; California Jewish Democrats; California Sikh Council; Chai Marin; Congregation Kol Ami; Contra Costa Jewish Democrats; Democrats for Israel Los Angeles; Episcopal Diocese of Los Angeles; Faith and Community Empowerment; Greater Zion Church Family; Hadassah, the Women’s Zionist of America; Hillel of San Diego; Hindu American Foundation; Hollywood Temple Beth El; Holocaust Museum LA; Hope the Mission; Iman Cultural Center; Israeli-American Council; JCC/Federation of San Luis Obispo; JCRC Bay Area; Jewish Center for Justice; Jewish Democratic Coalition of the Bay Area; Jewish Family & Community Services East Bay; 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 the Sacramento Region; Jewish Federation of Ventura County; Jewish Partisan Educational Foundation; Jewish Silicon Valley; Jewish War Veterans, Jewish Family & Children’s Services of Long Beach and Orange County; Korean American Federation of Los Angeles; Los Angeles Baha’i

Center; National Council of Jewish Women CA; National Council of Jewish Women San Francisco; Northern California Jewish Labor Committee; Oakland Jewish Alliance; Osbourne Neighborhood Church; Palo Alto Jewish Alliance; Pasadena Jewish Temple and Center; Progressive Zionists of California; Renew United Method Church; Restauracion LA; Sephardic Temple Tifereth Israel; SF Jews in School; Simon Wiesenthal Center; Sinai Temple; SLACDEC; Southwest California Synod of the Evangelical Lutheran Church of America; St. Paul the Apostle Catholic Community; StandWithUs; Stephen Wise Temple, Los Angeles, CA; Temple Beth Hillel; Temple Judea of Laguna Hills; Temple Ramat Zion; The Jewish Coalition of Berkeley; United Methodist Church; Valley Beth Shalom; West Angeles Church Community Development Corporation; Western Diocese of the Armenian Church of North America; Westwood Presbyterian Church; Westwood United Methodist Church; Wilshire Boulevard Temple; Young Israel of Century City

Opposition: 1021 Jewish Workers for Justice; 1021 Members for Palestine; ACLU California Action; Californians United for A Responsible Budget; Council on American-Islamic Relations, California; Ella Baker Center for Human Rights; Friends Committee on Legislation of California; Harmony Law; Jewish Parents for Collective Liberation; Jewish Voice for Peace – Sacramento Chapter; Jewish Voice for Peace Santa Barbara; Jewish Voice for Peace – South Bay; Justice2Jobs Coalition; La Defensa; Local 148, Los Angeles County Public Defender’s Union; Organizing Rooted in Abolition, Liberation and Empowerment; Palestine Justice Coalition, Santa Cruz; QUIT!; San Francisco Public Defender; South Bay People Power; Workers Circle/Arbeter Ring of Northern California; Multiple Individuals

Assembly Floor Vote:

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PURPOSE

The purpose of this bill is to prohibit a 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 8 feet of that person or occupant, without consent, to engage in specified conduct with that person or occupant.

Existing law provides that Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof. (U.S. Const., 1st Amend.)

Existing law provides that the free exercise and enjoyment of religion without discrimination or preference are guaranteed, and that the Legislature of the State of California shall make no law respecting an establishment of religion. (Cal. Const, art. I, § 3.)

Existing federal law makes it a crime to intentionally damage or destroy religious real property because of the religious character of that property or to intentionally obstruct, by force or threat of force, including by threat of force against religious real property, any person in the enjoyment of that person’s free exercise of religious beliefs, or attempts to do so. (18 U.S.C. § 247, subd. (a).)

Existing federal law provides that a violation of the above prohibition is punishable under specified circumstances as a felony and in all other cases as a misdemeanor. (18 U.S.C. § 247, subd. (d).)

Existing federal law provides that whoever by force or threat of force or by 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 worship shall be subject to specified criminal penalties and civil remedies, as specified. (18 U.S.C. § 248, subds. (a)(2), (b).)

Existing law establishes a legislative finding and declaration that it is the right of every person regardless of actual or perceived disability, gender, gender identity, gender expression, nationality, race or ethnicity, religion, sexual orientation, or association with a person or group with these actual or perceived characteristics, to be secure and protected from fear, intimidation, and physical harm caused by the activities of violent groups and individuals. (Pen. Code, §11410, subd. (a).)

Existing law establishes that the Legislature recognizes the constitutional right of every citizen to harbor and express beliefs on any subject whatsoever and to associate with others who share similar beliefs, but also that the advocacy of unlawful violent acts by groups against other persons or groups under circumstances where death or great bodily injury is likely to result is not constitutionally protected, poses a threat to public order and safety, and should be subject to criminal and civil sanctions. (*Ibid.*)

Existing law provides that, except as provided, 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 any number of specified locations, including a house of worship, 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 persons to reasonably be in sustained fear for their own safety or the safety of others at these locations, shall be guilty of a crime, punishable as a wobbler. (Pen. Code, § 422.3.)

Existing law, the California Freedom of Access to Clinic and Church Entrances (FACE) Act, 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 criminal punishment, as specified:

- 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
- 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

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

Existing law 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).)

Existing law 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).)

Existing law 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).)

Existing law 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).)

Existing law provides that a person aggrieved by a violation of the FACE Act may bring a civil action to enjoin the violation, for compensatory and punitive damages, and for the costs of suit and reasonable fees for attorneys and expert witnesses, except that only a person lawfully exercising or seeking to exercise the First Amendment right of religious freedom in a place of religious worship, or the entity that owns or operates a place of religious worship, may bring an action under provisions of the FACE Act related to conduct at a place of worship. (Pen. Code, § 423.4, subd. (a).)

Existing law provides that courts in which a criminal or civil proceeding is filed for violations of the FACE Act shall take all action reasonably required, including granting restraining orders, to safeguard the health, safety, or privacy of specified parties that are parties to the proceeding, witnesses, victims, potential victims and others. (Pen. Code, § 423.5, subd. (a).)

Existing law makes it a wobbler for a person to burn or desecrate a cross or other religious symbol, knowing it to be a religious symbol, on the property of a place of worship for the purpose of terrorizing a person who attends it, works at it, or is otherwise associated with it. (Pen. Code, § 11411, subd. (d).)

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 person, to inflict an unlawful injury upon any person or property, and it reasonably appears to the recipient of the threat that such threat could be carried out is guilty of a felony. (Pen. Code, § 11412.)

Existing law defines “hate crime” as a criminal act committed, in whole or in part, because of one or more specified actual or perceived characteristics of the victim, including the victim’s religion., where “religion” is defined as including all aspects of religious belief, observance, and practice and includes agnosticism and atheism. (Pen. Code, §§ 422.55, 422.56, subd. (g).)

Existing law provides that a person, whether or not acting under color of law, shall not, by force or threat of force, willfully injure, intimidate, interfere with, oppress, or threaten any other 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 the actual or perceived characteristics of the victim, including the victim’s religion. (Pen. Code, § 422.6, subd. (a).)

Existing law provides that a person, whether or not acting under color of law, shall not knowingly deface, damage, or destroy the real or personal property of any other 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 actual or perceived characteristics of the victim, including the victim’s religion. (Pen. Code, § 422.6, subd. (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 that fine and imprisonment. (Pen. Code, § 302, subd. (a).)

This bill provides that, within a 100-foot radius from an entrance or exit from a place of worship a person shall not intentionally approach another person or occupant of a motor vehicle within 8 feet of that person or occupant, unless they consent, to do either of the following:

- Pass a leaflet or handbill to, display a sign to, or engage in oral protest or education with the other person or occupant.
- Harass, obstruct, threaten, or intimidate the other person or occupant.

This bill provides that 8 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.

This bill provides that 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.

This bill provides that a first violation of the prohibition above is a misdemeanor, punishable by a fine not exceeding one \$1,000, imprisonment in a county jail not exceeding six months, or by both that fine and imprisonment.

This bill provides that a second or subsequent violation of this section is punishable by a fine not to exceed \$5,000, by imprisonment in a county jail for a period of not more than one year, or by both that fine and imprisonment.

This bill includes a severability clause.

COMMENTS

1. Need for This Bill

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. Existing Criminal Law Related to Religious Freedom and Effect of This Bill

In 1994, President Clinton signed the Freedom of Access to Clinic Entrances (FACE) Act, which prohibits the use of physical force, threat of physical force, or physical obstruction to intentionally injure, intimidate, interfere with or attempt to injure, intimidate or interfere with any person who is obtaining an abortion or exercising or trying to exercise their First

Amendment right of religious freedom at a place of religious worship.¹ The FACE Act has been subject to considerable debate recently as President Trump’s Department of Justice has begun using the law – traditionally deployed almost exclusively to protect patients and staff at abortion clinics – to safeguard the exercise of religious freedom. Although threats to abortion providers and patients have become no less prevalent, the Department of Justice issued a memo soon after President Trump took office stating that “future abortion-related FACE Act prosecutions and civil actions will be permitted only in extraordinary circumstances, or in cases presenting significant aggravating factors.”² The Trump Administration has pivoted to enforcing the law’s other provision prohibiting interference with the exercise of religious freedom, including the recent prosecution of pro-Palestinian protesters whose demonstrations resulted in a clash with pro-Israel counterprotesters in New Jersey. FACE Act charges were also recently brought against a group of individuals protesting a church in Minneapolis. Controversially, two journalists were also charged under the statute, despite being unassociated with the protesters.³

California law safeguards the free exercise of religion and religious worship through a robust and well-established set of criminal statutes addressing a wide range of conduct. In 2001, the Legislature enacted AB 780 (Ortiz), Chapter 899, Statutes of 2001, which established a California FACE Act modeled closely after its federal counterpart, and as such included criminal penalties for conduct interfering with both religious and reproductive rights.⁴ Substantively, the California FACE Act sets forth 8 distinct crimes, three of which specifically apply to interference with persons or property damage at places of worship, and punishable as either misdemeanors or felonies depending on specified factors.⁵

Other assorted criminal penalties related to interference with one’s exercise of religious freedom include a misdemeanor for intentionally disturbing a religious meeting, and another making it a wobbler to knowingly commit an act of vandalism to a place of worship.⁶ Existing law also imposes significant penalties for threats related to the exercise of religion, including a felony for attempting to cause or causing another to refrain from exercising their religion or from engaging in a religious service by means of a threat to inflict injury upon person or property.⁷ A more recent criminal threat statute, enacted last year by SB 19 (Rubio), Chapter 594, Statutes of 2025, provides that any person who willfully threatens to commit a crime that will result in death or great bodily injury to another person or persons at a house of worship (as well as many other specified locations), with specific intent that the statement is to be taken as a threat, even if there

¹ 18 U.S.C. §§ 247, 248. Although the impetus for the law was violence against abortion clinics and providers, a fraught legislative conflict resulted in a Republican-sponsored clause being added that provided for penalties for disruptions of worship services. See “What to know about the civil rights charges Don Lemon faces for covering church protest in Minnesota.” *Associated Press*. 30 January 2026. <https://apnews.com/article/minneapolis-church-ice-protest-lemon-charges-arrests-8f09050ecabb2239b837d3f08c272f0d>

² “FACE Act Charging Policy.” *Memorandum from the Chief of Staff to the Attorney General*. United States Department of Justice, Office of the Attorney General. 24 January 2025. <https://www.justice.gov/media/1386461/dl> ; For statistics regarding threats to abortion providers and patients, see NAF 2024 Violence & Disruption Report, <https://nationalabortionfederation.org/safety-security/2024-naf-violence-disruption/#findings>

³ What to Know About the ‘Abortion Clinic’ Law Being Used to Charge Don Lemon.” *New York Times*. 30 January 2026. <https://www.nytimes.com/2026/01/30/us/politics/face-act-lemon-explainer.html>

⁴ Pen. Code, §§ 423, et. seq.

⁵ Pen. Code, §§ 423.2, subds. (b), (d), (f), 423.3.

⁶ Pen. Code, §§ 302, 594.3.

⁷ Pen. Code, § 14412.

is no intent of actually carrying it out, is guilty of a wobbler, provided other facts are true about the content of the threat and its impact on the recipient.⁸

Perhaps the most comprehensive and well-defined criminal protections for religious freedom in California are its hate crime statutes, which include both standalone offenses and sentencing enhancements for specific conduct. Existing law defines “hate crime” as a criminal act committed, in whole or in part, because of one or more specified actual or perceived characteristics of the victim, including the victim’s religion, where “religion” is defined as including all aspects of religious belief, observance, and practice and includes agnosticism and atheism.⁹ The criminal statutes include a standalone wobbler prohibiting the use of force or threat of force to willfully injure, intimidate, interfere with, oppress, or threaten any other person in the free exercise or enjoyment of a constitutional right, as well as an enhancement that allows other misdemeanors, if motivated by religious animus (or any other desire to interfere with constitutional rights), to be charged as felonies.¹⁰ Yet another provision adds up to three additional years to felony hate crime sentences for specified aggravating conduct, such as acting in concert, using a firearm in the commission of the offense, or having a prior hate crime conviction.¹¹

Citing an uptick in antisemitism and violence driven by religious animus, the author seeks to add to this body of law aimed at protecting the free exercise of religion. Specifically, this bill prohibits a person, within a 100-foot radius from an entrance or exit of a place of religious worship, from intentionally approaching within eight feet of another person or occupant of a vehicle, without their consent, to do either of the following: (1) pass a leaflet, display a sign, or engage in oral protest or education with another person; or (2) harass, obstruct, threaten, or intimidate the other person or occupant. It is already generally unlawful to harass, threaten, or intimidate another person. A violation of this provision is a misdemeanor, punishable by a fine of up to \$1000 and 6 months in jail for a first offense, and by a fine of up to \$5,000 and a year in jail for a second or subsequent offense. The bill defines “place of religious worship” as any building, structure, or space that is used primarily for religious worship activities or to provide religious education or instruction, including their parking lots, parking lot entrances, driveways, and driveway entrances. Moreover, the bill specifies that 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, and 8 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.

This bill includes a legislative intent section stating that its substantive provisions are “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.” To that end, the bill’s findings go on to state 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 is not intended to “seek to favor one viewpoint over another or to limit speech regarding any specific topic.” While these findings have no bearing on the measure’s ultimate constitutionality, they do foreshadow the First Amendment analysis that is likely to be dispositive in that regard.

⁸ Pen. Code, § 422.3.

⁹ Pen. Code, § 422.55.

¹⁰ Pen. Code, §§ 422.6, 422.7.

¹¹ Pen. Code, § 422.75.

3. Relevant First Amendment Protections Generally

This bill implicates two core constitutional rights that are central to our democratic system of government: the right to free speech and the right to freely exercise one's religion. Indeed the first two provisions of the First Amendment to the United States Constitution set forth that "Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech."¹² The California Constitution also protects these rights, providing that "every person may freely speak, write and publish his or her sentiments on all subjects, being responsible for the abuse of this right [and] a law may not restrain or abridge liberty of speech or press," and that "free exercise and enjoyment of religion without discrimination or preference are guaranteed."¹³ The Supreme Court of the United States has opined that "as 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."¹⁴ However, "the rights of free speech and assembly, while fundamental in our democratic society, still do not mean that everyone with opinions or beliefs to express may address a group at any public place and at any time. [...] A group of demonstrators could not insist upon the right to cordon off a street, or entrance to a public or private building, and allow no one to pass who did not agree to listen to their exhortations."¹⁵ To be sure, the Supreme Court has been clear that violence, such as a physical assault, is not protected by the First Amendment, and has opined that "other types of potentially expressive activities that produce special harms distinct from their communicative impact...are entitled to no constitutional protection."¹⁶

It is long-established that the First Amendment's protections are strongest in a "public forum," such as a public street, sidewalk or town square, which occupy a special position within these protections because of their historic role as sites for discussion and debate.¹⁷ Notably, peaceful picketing and leafletting are expressive activities involving speech that fall under First Amendment protection.¹⁸ The Court has also stated that 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, and it has rejected arguments that the First Amendment requires private property owners to accommodate speech.¹⁹ Neither does the First Amendment guarantee a right to trespass on private property, or to physically block access to private property as a means of protest.²⁰ Though as the Court made clear in *Marsh v. Alabama* (1946) 326 U.S. 501, 506, this principle has its limits - indeed, "the more an owner, for his advantage, opens up his property for use by the public in general, the more do his rights become circumscribed by the statutory and constitutional rights of those who use it."

Another relevant element of the First Amendment analysis is whether the speech being regulated is "content neutral," or "content based,"—i.e., targeting a particular type of speech. A law is content based when the proscribed speech is "defined solely on the basis of the content of the

¹² U.S. Const., 1st Amend. Section 1. This amendment also protects the freedom of assembly, a right relevant to this bill.

¹³ Cal. Const., art. I, §§ 2, 4.

¹⁴ *Ashcroft v. American Civil Liberties Union* (2002) 535 U.S. 564, 573.

¹⁵ *Cox v. La* (1965) 379 U.S. 536, 554-555.

¹⁶ *Wisconsin v. Mitchell* (1993) 508 U.S. 476, 484; *Roberts v. United States Jaycees* (1984) 409 U.S. 609, 628.

¹⁷ *United States v. Grace* (1983) 461 U.S. 171, 172; *Perry Ed. Assn. v. Perry Local Educators Assn.* (1983) 460 U.S. 37

¹⁸ *United States v. Grace*, *supra*.

¹⁹ *Perry Ed. Assn. v. Perry Local Educators Assn.*, *supra*; *Lloyd Corp. v. Tanner* (1972) 407 U.S. 551, 567-568. See also *Adderley v. Florida* (1966) 385 U.S. 39, 47-48; *Cox v. Louisiana* (1965) 379 U.S. 536, 554-55.

²⁰ *Nat'l Org. for Women v. Operation Rescue* (1994) 37 F.3d 646, 655.

suppressed speech” or “if it require[s] ‘enforcement authorities’ to ‘examine the content of the message that is conveyed to determine whether’ a violation has occurred.”²¹ If a restriction on speech is determined to be content based, it will be subject to strict scrutiny, meaning that it narrowly tailored to serve a compelling government interest.²² Conversely, a law is content neutral when it “serves purposes unrelated to the content of the expression,” and such laws need only meet intermediate scrutiny, under which the government must show an important government interest, served via means not substantially broader than necessary to meet said interest.²³ One subset of content-neutral restrictions is time, place and manner (TPM) restrictions, which focus on the circumstances surrounding the speech, and which are at issue in this bill. TPM restrictions are only permissible when they are justified without reference to the content of the regulated speech, are narrowly tailored to serve a significant governmental interest, and that in doing so they leave open ample alternative channels for communication of the information.”²⁴

Many prior cases subject to this TPM analysis, like the instant bill, involved the concept of “buffer zones,” and the extent of the government’s ability to impose such zones around sensitive areas where there is some governmental interest in limiting constitutionally protected expression. Historically, these cases, including the two landmark cases central to the analysis of this bill’s constitutionality, have involved abortion clinics, whereas this bill involves “places of religious worship,” potentially altering the analysis of the governmental interest at play. That said, the courts have held that buffer zones around abortion clinics are content-neutral restrictions, making it likely that buffer zones around places of worship are as well. The analysis then becomes a fact-specific one looking at whether the buffer zones in this bill - around places of worship and around individuals within that larger zone – are sufficiently tailored to meet the governmental interest in protecting one’s free exercise of religion without being approached by a person intending to “pass a leaflet or handbill to, display a sign to, or engage in oral protest or education with the other person.”

4. Relevant Buffer Zone Jurisprudence

As referenced above, two United States Supreme Court cases regarding “buffer zones” are critical to understanding the constitutionality of this bill. In the first of these cases, *Colorado v. Hill* (2000) 530 U.S. 703, the Supreme Court upheld a buffer zone, also called a “floating bubble” by the courts, around abortion clinics that mirrors the one created by this bill: the Colorado statute made it unlawful for any person within 100 feet of a health care facility’s entrance to knowingly approach within 8 feet of another person, without that person’s consent, in order to pass “a leaflet or handbill to, display a sign to, or engage in oral protest, education, or counseling with” another person.”²⁵ The plaintiffs in *Hill* were self-described “sidewalk counselors” who engaged women entering the clinic to discuss alternatives to abortion and challenged the law on First Amendment grounds. On a 6-3 vote, the Court held that Colorado had a legitimate interest in protecting the health and safety of its citizens and that the statute was a content-neutral TPM restriction that left ample alternative channels for communication.²⁶ Critically, the Court concluded that “although the statute prohibits speakers from approaching

²¹ *FCC v. League of Women Voters* (1984) 468 U.S. 364, 383. *McCullen v. Coakley* (2014) 573 U.S. 464, 478-479.

²² *Id.*

²³ *Ward v. Rock Against Racism* (1989) 491 U.S. 781, 791.

²⁴ *Heffron v. International Soc. For Krishna Consciousness, Inc.* (1981) 452 U.S. 640, 647-648; *McCullen*, *supra*, at p. 477; *Ward*, *supra*.

²⁵ *Id.* at p. 707.

²⁶ *Id.* at p. 715.

unwilling listeners it does not require a standing speaker to move away from anyone passing by. Nor does it place any restriction on the content of any message that anyone may wish to communicate to anyone else, either inside or outside the regulated areas.”²⁷

More recently, in 2014, the Supreme Court once again took up the issue of buffer zones, this time scrutinizing the First Amendment integrity of a Massachusetts law prohibiting a person from standing on a public sidewalk within 35 feet of an abortion clinic, subject to certain exemptions.²⁸ The Court ultimately overturned the law by a vote of 6-3, concluding that although the statute was content-neutral and was therefore not subject to strict scrutiny, it was not sufficiently tailored to serve the significant government interests at play. That is, while regulations subject to intermediate scrutiny need not be the least restrictive means of serving the government’s legitimate interest, the Massachusetts law burdened substantially more speech than was necessary to further that interest, and it was not sufficient for the state to simply say that alternatives had not worked.²⁹ The Court highlighted that the law denied petitioners the ability to engage in even peaceful conversation and leafletting on public streets and sidewalks, which, in addition to commenting on matters of public concern, are classic forms of speech that lie at the heart of the First Amendment.³⁰ It should be noted that while the 3 concurring justices agreed that the law ran afoul the First Amendment, they believed that it was in fact a content-based regulation, and declared that the precedent set in *Hill*, which renders many such restrictions in public for content-neutral simply because they do not explicitly describe the content of the speech, should be overturned.³¹

In support of this bill, the author cites recent increases in antisemitic incidents across the county:

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. 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.

Groups opposed to the bill, however, argue that existing laws and criminal penalties are sufficient to address this conduct, and that the bill represents an unacceptable encroachment on rights protected by the First Amendment (see comment 7).

Given the controversy surrounding this bill, it is almost certain that the bill will face a constitutional challenge if it is signed into law, but its fate under such a challenge is far from certain. As mentioned above, under the caselaw on buffer zones and assuming *Hill* is still controlling, the bill is likely to be viewed as a content-neutral restriction, and presumably a court

²⁷ *Id.* at pp. 707-708

²⁸ *McCullen v. Coakley* (2014) 573 U.S. 464; note that the buffer zone in this case did not include the 8-foot “floating bubble” present in the *Hill* case.

²⁹ *Id.* at pp. 496-497.

³⁰ *Id.* at. 489, quoting *Schenck v. Pro-Choice Network of W. N.Y.* (1997) 519 U.S. 357, 377.

³¹ *McCullen*, *supra* at pp. 497-505. It should also be noted that since *McCullen*, many courts have questioned the precedent set by *Hill* and expressed skepticism about whether it was rightly decided. See *Coalition for Life v. City of Carbondale* (S.D. Ill. July 6, 2023, No. 23-cv-01651-SPM) 2023 U.S. Dist. LEXIS 116179, affirmed by 2024 U.S. App. LEXIS 5657 (7th Cir.), and *Price v. City of Chicago* (7th Cir. 2019) 915 F.3d 1107, 1109; See also *Turco v. City of Englewood* (3d Cir. 2019) 935 F.3d 155, 167.

would uphold it if California can demonstrate the following: that the 8- and 100-foot buffer zones constitute a sufficiently tailored approach to serve the state's interest in preventing what the Court in *Hill* described as “the unwilling listener's interest in avoiding unwanted communication.”³² Moreover, California will have to show that it considered less restrictive alternatives and that those alternatives failed, perhaps even that the state's criminal statutes protecting the free exercise of religion were insufficient. The author and Committee might consider modifying the definition of “place of religious worship” to ensure that buffer zones do not extend to public fora, perhaps by excluding parking lots and driveways. The definition could also be limited to structures used primarily for religious worship, which may be underinclusive, but would avoid including outbuildings and outdoor spaces that may be used to education or instruction.

Even beyond the constitutional issue, the question arises: is it appropriate to impose misdemeanor liability for passing a leaflet or handbill, displaying a sign, or engaging in oral protest or education with someone near the entrance or exit to a place of worship? For instance, because the bill's protections apply to the occupant of a vehicle, a person standing on a public sidewalk with a sign who takes a step toward a vehicle departing out of a church's driveway, provided the person comes within 8 feet of that departing vehicle, would be subject to a misdemeanor under this measure. Is this appropriately understood as criminal conduct?

5. Related Legislation

SB 1070 (Grove), introduced this year, would have increased the penalty for the crime of disturbing or disquieting an assemblage of people met for religious worship from a misdemeanor to a wobbler and implicated distinct yet related constitutional concerns. SB 1070 failed in this committee by a vote of 1-5.

6. Argument in Support

According to Jewish California, the sponsor of the bill, representing over 40 member organizations:

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

³² *Hill*, supra, at p. 716.

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.

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.

7. Argument in Opposition

According to 1021 Jewish Workers for Justice:

Real Safety Requires Real Solutions — Not Censorship

Threats and acts of violence against religious institutions are already crimes under federal and California law. The FACE Act of 1994 prohibits force and threats of force at houses of worship, and existing state law covers harassment, intimidation, and obstruction. If our synagogues face genuine threats, those laws must be enforced. AB 2664 adds nothing to that protection. What it does instead is make it a misdemeanor — punishable by up to a year in jail and a \$5,000 fine — to approach someone within eight feet of a 100-foot perimeter around any religious institution to hand them a leaflet, hold a sign, or have a conversation.

This Bill Is Being Used to Shield Harmful Activities from Accountability

AB 2664 was drafted specifically in response to protests at synagogues and churches hosting IDF recruitment events, speakers from weapons manufacturers, and events marketing illegally occupied Palestinian land. Many of us, as Jews committed to justice and international law, believe these activities must be open to peaceful public protest. Silencing that protest — in our name — does not make Jewish communities safer. It makes dissent within and around our community a criminal act.

AB 2664 Threatens the Rights of All Californians

The bill's sweeping 100-foot buffer zone extends to public sidewalks and neighboring private property. A homeowner's yard sign. A flyer on a public street. One-on-one conversation — what courts have called the most fundamental form of political discourse.

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