
SENATE COMMITTEE ON PUBLIC SAFETY

Senator Steven Bradford, Chair

2021 - 2022 Regular

Bill No: AB 2588 **Hearing Date:** June 14, 2022
Author: Maienschein
Version: April 18, 2022
Urgency: No **Fiscal:** Yes
Consultant: SC

Subject: *Crimes: obstruction of justice*

HISTORY

Source: California State Sheriffs' Association

Prior Legislation: AB 1451 (Lackey), never heard in Assem. Public Safety, 2021
SB 1066 (Galgiani), never heard in Sen. Public Safety, 2020
AB 1491 (Oberholte), never heard in Assem. Judiciary, 2019

Support: Arcadia Police Officers Association; Burbank Police Officers' Association; California Coalition of School Safety Professionals; California District Attorneys Association; Claremont Police Officers Association; Corona Police Officers Association; Culver City Police Officers' Association; Fullerton Police Officers Association; Inglewood Police Officers' Association; Los Angeles School Police Officers Association; Newport Beach Police Association; Palos Verdes police Officers Association; Peace Officers Research Association of California (PORAC); Placer County Deputy Sheriffs' Association; Pomona Police Officer Association; Riverside Police Officers Association; Santa Ana Police Officers Political Action Committee; Upland Police Officers Association

Opposition: None known

Assembly Floor Vote: 65 - 0

PURPOSE

The purpose of this bill is to amend the existing crime of disclosing specified information pertaining to a public safety official with the intent to obstruct justice or the due administration of the laws, to include protection of the official's "immediate family," rather than their "spouse and child."

Existing law provides that every person who maliciously, and with the intent to obstruct justice or the due administration of the laws, or with the intent or threat to inflict imminent physical harm in retaliation for the due administration of the laws, publishes, disseminates, or otherwise discloses the residence address or telephone number of any peace officer, nonsworn police dispatcher, employee of a city police department or county sheriff's office, or public safety official, or that of the spouse or children of these persons who reside with them, while designating the peace officer, nonsworn police dispatcher, employee of a city police department or county sheriff's office, or public safety official, or relative of these persons as such, without

the authorization of the employing agency, is guilty of a misdemeanor. (Pen. Code, § 146e, subd. (a).)

Existing law states that if such disclosure results in bodily injury to the peace officer, employee of the city police department or county sheriff's office, or public safety official, or the spouse or children of these persons, the crime is a felony punishable by a term of imprisonment in a county jail for 16 months, or two or three years. (Pen. Code, § 146e, subd. (b).)

Existing law defines "public safety officer" to mean:

- a peace officer or other person who may exercise powers of arrest during the course and within the scope of their employment;
- a public officer or any inspector or investigator regularly employed and paid as such in the office of a district attorney or any peace officer employee of the Board of Prison Terms; an elected or appointed official;
- an attorney employed by the Department of Justice, the State Public Defender, or a county office of the district attorney or public defender, the United States Attorney, or the Federal Public Defender;
- a city attorney or an attorney who represents cities in criminal matters;
- an employee of the Department of Corrections and Rehabilitation who supervises inmates;
- a sworn or nonsworn employee who supervises inmates in a city police department, a county sheriff's office, the Department of the California Highway Patrol, federal, state, or a local detention facility, and a local juvenile hall, camp, ranch, or home, and a probation officer;
- a federal prosecutor, federal criminal investigator, or a National Park Service Ranger working in California;
- the surviving spouse or child of a peace officer if the peace officer died in the line of duty;
- state and federal judges and court commissioners;
- an employee of the Attorney General, a district attorney, or a public defender that routinely place that employee in personal contact with persons under investigation for, charged with, or convicted of, committing criminal acts, as specified;
- and a nonsworn employee of the Department of Justice or a police department or sheriff's office that, in the course of his or her employment, is responsible for collecting, documenting, and preserving physical evidence at crime scenes, testifying in court as an expert witness, and other technical duties, and a nonsworn employee that, in the course of his or her employment, performs a variety of standardized and advanced laboratory procedures in the examination of physical crime evidence, determines their results, and provides expert testimony in court. (Gov. Code, § 6254.24, effective until Jan. 1, 2023 upon which Gov. Code, § 7920.535 will go into effect.)

This bill replaces the existing law's protections of the public safety official's spouse or children with immediate family of the public safety official.

This bill defines "immediate family" to mean "a spouse, parent, child, a person related by consanguinity or affinity within the second degree, or another person who regularly resides in the household, or who, within the prior six months, regularly resided in the household."

COMMENTS

1. Need for This Bill

According to the author of this bill:

AB 2588 seeks to modernize current statute so that the explicit publication of a public official's vehicle license plate and vehicle description, with the intent to intimidate, harass, or cause bodily harm, while they perform their duties, is considered a misdemeanor.

While the disclosure of the home addresses and residence phone numbers of peace officers and certain elected or appointed officials with specified intent is prohibited by law per Penal Code Section 146e, the publication of such person's vehicle license plate information and/or vehicle description is not explicitly prohibited from being published. In addition, current law does not explicitly include such action with the intent to cause harassment and intimidation of these public officials as grounds for misdemeanor charges, when elected and appointed official may have had their personal information published for the sole purpose of being harassed and intimidated over the course of months and sometimes years.

2. Effect of this Legislation

The purpose of existing Penal Code Section 146e is to prevent individuals from threatening peace officers and public officials from carrying out their official duties. To be convicted under Section 146e, a defendant must have (1) published, disseminated, or otherwise disclosed the residence address or telephone number; (2) of any peace officer or public safety official, as specified, or their spouse or children who reside with them; (3) designated the person as a peace officer or public official, or their relative; (4) acted either maliciously and with the intent to obstruct justice or the due administration of the laws, or with the intent or threat to inflict imminent physical harm in retaliation for the due administration of the laws; and, (5) acted without authorization of the employing agency.

A violation of Section 146e is a misdemeanor unless the elements of the statute are met and the public official, or their spouse or child, incurs bodily injury as a result of the publication, in which case the offence can be prosecuted as an alternate felony-misdemeanor.

This bill would extend Section 146e to cover a peace officer's or public official's "immediate family" instead of their "spouse or child." Immediate family would include a spouse, parent, child, a person related by consanguinity or affinity within the second degree, or another person who regularly resides in the household, or who, within the prior six months, regularly resided in the household.

3. Argument in Support

According to the Riverside County Sheriff's Department:

Existing law protects peace officers and other government employees from intimidation, harassment, and threats of violence, but it does not adequately protect the immediate families of these employees. AB 2588 expands the law to include the immediate family of these qualified employees, rather than limiting the protection to the employee's spouse and/or children.

This bill addresses the contemporary family unit where frequently many generations of family members live under the same roof. This is particularly true in many minority households and of Riverside County. Homes are generally larger and more affordable in Riverside County, leading to multiple generations living under the same roof. This encompasses the realities of today's household make-up, takes into consideration the minority population, accounts for the uniqueness of Riverside County and similarly situated counties in California, and protects the entire household rather than just the government employee's spouse and children.

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