
SENATE COMMITTEE ON PUBLIC SAFETY

Senator Nancy Skinner, Chair

2017 - 2018 Regular

Bill No: AB 2801 **Hearing Date:** June 12, 2018
Author: Salas
Version: April 9, 2018
Urgency: No **Fiscal:** Yes
Consultant: SC

Subject: *Crimes: Memorials: Veterans and Law Enforcement*

HISTORY

Source: American G.I. Forum Department of California

Prior Legislation: SB 1080 (Morrell), 2016, failed Senate Public Safety
AB 2739 (La Malfa), 2006, failed Senate Public Safety
AB 1818 (Conroy), Ch. 135, Stats. 1992

Support: American Legion - Department of California; AMVETS Department of California; California Association of County Veterans Association; California Police Chiefs Association; California Special Districts Association; California State Commanders Veterans Council; Chief Probation Officers of California; Los Angeles County Professional Peace Officers Association; Military Officers Association of America – California Council of Chapters; Peace Officers Research Association of California; Riverside Sheriffs' Association; Vietnam Veteran Association

Opposition: None known

Assembly Floor Vote: 74 - 0

PURPOSE

The purpose of this bill is to expand the crime of maliciously destroying or defacing law enforcement and firefighter memorials to include veterans' memorials.

Existing law states that every person who defaces with graffiti, damages, or destroys real property which is not his or her own is guilty of vandalism. (Pen. Code, § 594, subd. (a).)

Existing law punishes an act of vandalism based on the amount of defacement, damage or destruction, as follows:

- If the damage caused is \$400 or more, then the offense is punishable by imprisonment in the county jail under realignment, or in a county jail not exceeding one year, or by a fine of up to \$10,000, or both the fine and imprisonment. However, if the damage is \$10,000 or more, the fine imposed can be up to \$50,000.

- If the damage caused is less than \$400, then the offense is punishable by imprisonment in a county jail not exceeding one year, or by a fine of not more than \$1,000, or by both that fine and imprisonment. However, if the defendant has a prior vandalism or graffiti conviction, then the fine imposed can be up to \$5,000. (Pen. Code, § 594, subd. (b).)

Existing law makes it a crime to maliciously destroy, cut, mutilate, deface, or otherwise injure, tear down, or remove any tomb, monument, memorial, or marker in a cemetery. (Pen. Code, § 594.35.)

Existing law punishes the malicious defacement or destruction of cemetery property as a misdemeanor with imprisonment in the county jail not exceeding one year, or as a felony with imprisonment in the county jail pursuant to realignment. (Pen. Code, § 594.35.)

Existing law provides that every person who willfully destroys or vandalizes any municipal monument, work of art, ornamental improvement, or tree or plant, whether on private or public property, is guilty of a misdemeanor. (Pen. Code, § 622.)

Existing law provides that every person who maliciously destroys, mutilates, or otherwise vandalizes or removes any veterans' memorial constructed or established as specified is guilty of a crime punishable either as a misdemeanor with imprisonment in the county jail for less than one year, or as a felony with imprisonment in the county jail. (Mil. & Vet. Code, § 1318.)

Existing law provides that every person who maliciously destroys or vandalizes any law enforcement or firefighter memorial is guilty of a crime punishable either as a misdemeanor with imprisonment in the county jail for less than one year, or as a felony with imprisonment in the county jail pursuant to realignment. (Pen. Code, § 621.)

This bill expands Penal Code section 621 to include veterans' memorials, but specifies that the amended provision does not preclude prosecution under any other law.

COMMENTS

1. Need for This Bill

According to the author of this bill:

The general vandalism statute in California Penal Code Section 594, although quite comprehensive in its application, does not specifically mention memorials of any kind. Elsewhere in the California Penal Code however, the malicious vandalism of memorials for both firefighters and police officers are specifically recognized in their own statute (Penal Code Section 621). Unfortunately for veterans though, memorials erected in their honor are not currently included in that statute as written. This bill seeks to remedy that discrepancy by adding veteran's memorials to the list of structures explicitly protected under Penal Code Section 621.

2. The Effect of this Legislation

Penal Code section 621, which criminalizes the malicious vandalism of memorials for firefighters and police officers, was enacted in 1992 by AB 1818 (Conroy). That bill also enacted Military and Veterans Code section 1318 which criminalizes the malicious vandalism of veterans' memorials. The language found in Penal Code section 621 is nearly identical to the language in Military and Veterans Code section 1318. Both sections make it a crime to maliciously destroy, cut, break, mutilate, efface, or otherwise injure, tear down, or remove the specified memorials. Both sections punish the offenses either as a misdemeanor with imprisonment in the county jail for less than one year, or as a felony with imprisonment in the county jail pursuant to realignment.

This bill seeks to include veterans' memorials in Penal Code section 621 even though Military and Veterans Code section 1318 already criminalizes the malicious vandalism of veterans' memorials. Thus, it is unclear what effect, if any, this legislation would have on the prosecution of these crimes.

Because both of these statutes were enacted through the same bill, AB 1818 (Conroy), Chapter 135, Statutes of 1992, it is clear that the specificity of these statutes was intentional, not an oversight or discrepancy.

3. Argument in Support

According to the American GI Forum Department of California, the sponsor of this bill:

Veterans, law enforcement, and firefighters risk their lives to protect their communities, California, and the nation. Vandalism of their memorials impact the community due to the high regard to which these men and women are held. For example, when the Mexican-American Soldier Memorial in Sacramento was vandalized in 2015, the community was outraged at the vandalism of an iconic memorial to the war efforts of these Mexican-American soldiers for which the memorial was established. The statute was commissioned by a group of Mexican-American mothers whose sons died during World War II. AB 2801 intends to discourage the vandalism of such memorials.

-- END --