

Assembly Bill No. 2099

CHAPTER 821

An act to amend Section 6218.01 of the Government Code, and to amend Sections 422.6 and 423.3 of the Penal Code, relating to crimes.

[Approved by Governor September 28, 2024. Filed with
Secretary of State September 28, 2024.]

LEGISLATIVE COUNSEL'S DIGEST

AB 2099, Bauer-Kahan. Crimes: reproductive health services.

Existing law makes it a crime to post personal information or an image of a reproductive health care services patient, provider, or assistant, or other individuals residing at the same home address with the intent that another person imminently use that information to commit a crime involving violence or a threat of violence against the reproductive health care services patient, provider, or assistant, or other individuals residing at the same home address. Existing law makes a violation of this provision punishable as a misdemeanor. If the violation leads to bodily injury of the person, existing law makes it a misdemeanor punishable by up to one year in a county jail, a fine of up to \$50,000, or both that fine and imprisonment.

This bill would make a violation of these provisions punishable as either a misdemeanor or as a felony, and would make a violation a felony if bodily injury occurs. By increasing the punishment for a crime, this bill would impose a state-mandated local program.

Existing law 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.

This bill would make a violation of this provision punishable either as a misdemeanor or as a felony. By increasing the punishment for a crime, this bill would impose a state-mandated local program.

Existing law, the California Freedom of Access to Clinic and Church Entrances Act (the Act), prohibits specified actions that, by force, threat of force, or physical obstruction, impede access to reproductive health services facilities, as defined. Existing law specifies the penalties for a violation of the Act, including imprisonment as a misdemeanor and specified fines.

This bill would increase the penalties for violations of the Act, including making specified violations punishable as either a misdemeanor or as a felony. By increasing the punishment for a crime, this bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

The people of the State of California do enact as follows:

SECTION 1. Section 6218.01 of the Government Code is amended to read:

6218.01. (a) (1) A person shall not post on the internet or social media, with the intent that another person imminently use that information to commit a crime involving violence or a threat of violence against a reproductive health care services patient, provider, or assistant, or other individuals residing at the same home address, the personal information or image of a reproductive health care services patient, provider, or assistant, or other individuals residing at the same home address.

(2) A violation of this subdivision is punishable by a fine of up to ten thousand dollars (\$10,000) per violation, imprisonment of either up to one year in a county jail or pursuant to subdivision (h) of Section 1170 of the Penal Code, or by both that fine and imprisonment.

(3) A violation of this subdivision that leads to the bodily injury of a reproductive health care services patient, provider, or assistant, or other individuals residing at the same home address, is a felony punishable by a fine of up to fifty thousand dollars (\$50,000), imprisonment pursuant to subdivision (h) of Section 1170 of the Penal Code, or by both that fine and imprisonment.

(b) Nothing in this section shall preclude prosecution under any other provision of law.

SEC. 2. Section 422.6 of the Penal Code is amended to read:

422.6. (a) 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 listed in subdivision (a) of Section 422.55.

(b) 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 listed in subdivision (a) of Section 422.55.

(c) A person convicted of violating subdivision (a) or (b) shall be punished either by imprisonment in a county jail not to exceed one year, or by a fine

not to exceed five thousand dollars (\$5,000), or by both the above imprisonment and fine, or pursuant to subdivision (h) of Section 1170. In addition to that punishment, the court shall order the defendant to perform a minimum of community service, not to exceed 400 hours, to be performed over a period not to exceed 350 days, during a time other than the person's hours of employment or school attendance. However, a person shall not be convicted of violating subdivision (a) based upon speech alone, except upon a showing that the speech itself threatened violence against a specific person or group of persons and that the defendant had the apparent ability to carry out the threat.

(d) Conduct that violates this and any other law, including, but not limited to, an offense described in Article 4.5 (commencing with Section 11410) of Chapter 3 of Title 1 of Part 4, may be charged under all applicable provisions. However, an act or omission punishable in different ways by this section and another law shall not be punished under more than one law, and the penalty to be imposed shall be determined as set forth in Section 654.

SEC. 3. Section 423.3 of the Penal Code is amended to read:

423.3. (a) A first violation of subdivision (c), (d), (g), or (h) of Section 423.2 is a misdemeanor, punishable by imprisonment in a county jail for a period of not more than one year, or a fine not to exceed ten thousand dollars (\$10,000), or by both that fine and imprisonment.

(b) A second or subsequent violation of subdivision (c), (d), (g), or (h) of Section 423.2 is punishable by imprisonment in a county jail for a period of not more than one year, or by imprisonment pursuant to subdivision (h) of Section 1170, or a fine not to exceed twenty-five thousand dollars (\$25,000), or by both that fine and imprisonment.

(c) A first violation of subdivision (e) or (f) of Section 423.2 is a felony, punishable by imprisonment pursuant to subdivision (h) of Section 1170, or a fine not to exceed twenty-five thousand dollars (\$25,000), or by both that fine and imprisonment.

(d) A first violation of subdivision (a) or (b) of Section 423.2 is a misdemeanor, punishable by imprisonment in a county jail for a period of not more than one year, or a fine not to exceed twenty-five thousand dollars (\$25,000), or by both that fine and imprisonment.

(e) A second or subsequent violation of subdivision (a), (b), (e), or (f) of Section 423.2 is a felony, punishable by imprisonment pursuant to subdivision (h) of Section 1170, or a fine not to exceed fifty thousand dollars (\$50,000), or by both that fine and imprisonment.

(f) In imposing fines pursuant to this section, the court shall consider applicable factors in aggravation and mitigation set out in Rules 4.421 and 4.423 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.

(g) 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 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.

(h) 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).

SEC. 4. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs that may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.