

ASSEMBLY BILL

No. 535

Introduced by Assembly Member Schiavo

February 11, 2025

An act to amend Section 136.1 of the Penal Code, relating to crimes.

LEGISLATIVE COUNSEL’S DIGEST

AB 535, as introduced, Schiavo. Threatening a witness: assisting a prosecution.

Existing law makes it a crime to knowingly and maliciously prevent or dissuade, or attempt to prevent or dissuade, a witness or victim from causing a complaint, indictment, information, or probation or parole violation to be sought and prosecuted, and assisting in the prosecution thereof.

This bill would clarify that it is a violation of the offense described above to prevent or dissuade, or attempt to prevent or dissuade, a witness or victim from either causing a complaint, indictment, information, or probation or parole violation to be sought and prosecuted, or assisting in the prosecution thereof. By expanding the scope of a crime, this bill would impose a state-mandated local program.

This bill would also make other technical, nonsubstantive changes.

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.

Vote: majority. Appropriation: no. Fiscal committee: yes.

State-mandated local program: yes.

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

SECTION 1. Section 136.1 of the Penal Code is amended to read:

136.1. (a) Except as provided in subdivision (c), ~~any~~ a person who does any of the following is guilty of a public offense and shall be punished by imprisonment in a county jail for not more than one year or in the state prison:

(1) Knowingly and maliciously prevents or dissuades ~~any~~ a witness or victim from attending or giving testimony at ~~any~~ a trial, proceeding, or inquiry authorized by law.

(2) Knowingly and maliciously attempts to prevent or dissuade ~~any~~ a witness or victim from attending or giving testimony at ~~any~~ a trial, proceeding, or inquiry authorized by law.

(3) For purposes of this section, evidence that the defendant was a family member who interceded in an effort to protect the witness or victim shall create a presumption that the act was without malice.

(b) Except as provided in subdivision (c), ~~every~~ a person who attempts to prevent or dissuade another person who has been the victim of a crime or who is witness to a crime from doing any of the following is guilty of a public offense and shall be punished by imprisonment in a county jail for not more than one year or in the state prison:

(1) Making ~~any~~ a report of that victimization to ~~any~~ a peace officer ~~or officer~~, a state or local law enforcement officer ~~or probation or parole officer~~, a probation, parole, or correctional officer ~~or officer~~, a prosecuting agency ~~or to any agency~~, or a judge.

(2) Causing a complaint, indictment, information, ~~or~~ probation or parole violation to be sought and prosecuted, ~~and~~ or assisting in the prosecution thereof.

(3) Arresting or causing or seeking the arrest of ~~any~~ a person in connection with that victimization.

(c) ~~Every~~ A person doing any of the acts described in subdivision (a) or (b) knowingly and maliciously under any one or more of the following circumstances, is guilty of a felony punishable by imprisonment in the state prison for two, three, or four years under any of the following circumstances:

1 (1) ~~Where~~*If* the act is accompanied by force or by an express
2 or implied threat of force or violence, upon a ~~witness or victim~~
3 *witness, victim*, or any third person or the property of ~~any~~ *a* victim,
4 witness, or any third person.

5 (2) ~~Where~~*If* the act is in furtherance of a conspiracy.

6 (3) ~~Where~~*If* the act is committed by ~~any~~ *a* person who has been
7 convicted of ~~any~~ *a* violation of this section, ~~any~~ *a* predecessor ~~law~~
8 ~~hereto or any law, a federal statute statute, or a statute of any other~~
9 ~~state which, that~~, if the act prosecuted was committed in this state,
10 would be a violation of this section.

11 (4) ~~Where~~*If* the act is committed by ~~any~~ *a* person for pecuniary
12 gain or for any other consideration acting upon the request of any
13 other person. All parties to ~~such a~~ *the* transaction are guilty of a
14 felony.

15 (d) ~~Every~~*A* person attempting the commission of ~~any~~ *an* act
16 described in ~~subdivisions~~ *subdivision* (a), (b), ~~and~~ *or* (c) is guilty
17 of the offense attempted without regard to success or failure of the
18 attempt. The fact that no person was injured physically, or in fact
19 intimidated, ~~shall be no~~ *is not a* defense against ~~any~~ prosecution
20 under this section.

21 (e) ~~Nothing in this~~ *This section precludes does not preclude* the
22 imposition of an enhancement for great bodily injury ~~where~~ *if* the
23 injury inflicted is significant or substantial.

24 (f) The use of force during the commission of ~~any~~ *an* offense
25 described in subdivision (c) shall be considered a circumstance in
26 aggravation of the crime in imposing a term of imprisonment under
27 subdivision (b) of Section 1170.

28 SEC. 2. No reimbursement is required by this act pursuant to
29 Section 6 of Article XIII B of the California Constitution because
30 the only costs that may be incurred by a local agency or school
31 district will be incurred because this act creates a new crime or
32 infraction, eliminates a crime or infraction, or changes the penalty
33 for a crime or infraction, within the meaning of Section 17556 of
34 the Government Code, or changes the definition of a crime within
35 the meaning of Section 6 of Article XIII B of the California
36 Constitution.