

AMENDED IN ASSEMBLY MARCH 31, 1997

CALIFORNIA LEGISLATURE—1997–98 REGULAR SESSION

ASSEMBLY BILL

No. 717

**Introduced by Assembly Members Morrissey, Cunneen,
Margett, and Richter**

February 26, 1997

An act to add Section ~~646.95 to the Penal Code~~ 527.65 to the *Code of Civil Procedure*, relating to crimes.

LEGISLATIVE COUNSEL'S DIGEST

AB 717, as amended, Morrissey. ~~Stalking—Harassment:~~ penalties.

(1) Existing law provides ~~for the punishment of the crime of stalking as either a felony or a misdemeanor~~ that a person who has suffered harassment may seek a temporary restraining order and an injunction prohibiting the harassment, as prescribed.

This bill would provide, in addition, that with respect to any temporary restraining order, injunction, or other court order issued against a person who engages in ~~conduct prohibited by the provisions on stalking harassment~~, if the person uses a motor vehicle or other form of transportation, telephone, mailing or shipping service, or a computer or facsimile machine or equipment, in the commission of a violation of the terms of that restraining order, injunction, or other court order, the court may order that the person's driving privileges be suspended and driver's license be revoked for a specified time, that the vehicle be impounded or forfeited, that a block

be placed on the person's residential telephone to stop all outgoing calls to the area code of the victim's telephone, that the person surrender the computer, fax, or form of transportation to the court for impoundment or sale, that the person perform weekend community service, and that the person undergo specified treatment and evaluation. The bill would also authorize the court to order the person to pay court costs.

(2) Existing law generally provides that when a complaint is filed with a magistrate charging a public offense and the magistrate is satisfied from the complaint that the offense complained of has been committed and that there is reasonable ground to believe that the defendant has committed it, the magistrate shall issue a warrant for the arrest of the defendant. Existing law also generally provides that a peace officer may arrest a person in obedience to a warrant, or without a warrant if the officer has reasonable cause to believe that the person to be arrested has committed a public offense in the officer's presence.

This bill would provide that, notwithstanding the above provisions, a magistrate shall have reasonable ground to issue a warrant of arrest for, and a peace officer shall have reasonable cause to arrest without a warrant and take into custody, any person who violates a term of a restraining order, injunction, or other court order relating to the maintenance of distance from a victim of harassment, where the violation is witnessed or videotaped by other than a peace officer.

(3) The bill would make it a misdemeanor for any person who violates the terms of a temporary restraining order, injunction, or other court order to fail to register all changes of residential address with the court and with the Department of Motor Vehicles.

By ~~imposing additional penalties for the crime of stalking and by~~ creating a new crime relating to the registration of the residential address of a person who has violated a court order ~~on stalking prohibiting harassment~~, this bill would impose a state-mandated local program.

(4) 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:

1 ~~SECTION 1. Section 646.95 is added to the Penal~~
2 ~~Code, to read:~~
3 ~~646.95. (a)~~
4 *SECTION 1. Section 527.65 is added to the Code of*
5 *Civil Procedure, to read:*
6 *527.65. (a) (1) With respect to any temporary*
7 *restraining order, injunction, or other court order issued*
8 *against a person who engages in—conduct prohibited by*
9 *subdivision (a) of Section 646.9—harassment, as defined in*
10 *subdivision (b) of Section 527.6, if the person violates a*
11 *term of a restraining order, injunction, or other court*
12 *order relating to the maintenance of distance from the*
13 *victim of that behavior, from any address submitted to*
14 *the court by the victim of that behavior, or from any place*
15 *serving as an access to any such address, the court may*
16 *order the following:*
17 ~~(1)~~
18 *(A) For a first offense, that the person perform*
19 *weekend community service for a period of three*
20 *months.*
21 ~~(2)~~
22 *(B) For a second offense, that the person perform*
23 *weekend community service for a period of six months.*
24 ~~(3)~~
25 *(C) For a third offense, that the person perform*
26 *weekend community service for a period of one year and*
27 *that the person undergo a 72-hour treatment and*
28 *evaluation pursuant to Section 5150 of the Welfare and*
29 *Institutions Code.*
30 *(2) (A) Notwithstanding Section 813, a magistrate*
31 *shall have reasonable ground to issue a warrant of arrest*

1 for any person who violates a term of a restraining order,
2 injunction, or other court order relating to the
3 maintenance of distance from a victim of harassment, as
4 specified in paragraph (1), where the violation is
5 witnessed or videotaped by other than a peace officer.

6 (B) Notwithstanding Section 836, a peace officer shall
7 have reasonable cause to arrest without a warrant and
8 take into custody, any person who violates a term of a
9 restraining order, injunction, or other court order
10 relating to the maintenance of distance from a victim of
11 harassment, as specified in paragraph (1), where the
12 violation is witnessed or videotaped by other than the
13 peace officer, whether or not the violation occurred in
14 the presence of the arresting officer.

15 (b) With respect to any temporary restraining order,
16 injunction, or other court order issued against a person
17 who engages in ~~conduct prohibited by subdivision (a) of~~
18 ~~Section 646.9~~ harassment, as defined in subdivision (b) of
19 Section 527.6, if the person uses a motor vehicle in the
20 commission of a violation of the terms of that restraining
21 order, injunction, or other court order, the court may
22 order the following:

23 (1) For a first offense, that the person's driving
24 privileges be suspended and his or her driver's license be
25 revoked for a period of three months and that the person
26 perform weekend community service for a period of
27 three months.

28 (2) For a second offense, that the person's driving
29 privileges be suspended and his or her driver's license be
30 revoked for a period of six months, that the person's
31 vehicle be impounded for that six-month period, that the
32 person pay all costs of impoundment not to exceed two
33 hundred fifty dollars (\$250), and that the person perform
34 weekend community service for a period of six months.

35 (3) For a third offense, that the person's driving
36 privileges be suspended and his or her driver's license be
37 revoked for a period of one year, that the person's vehicle
38 be forfeited to the state, that the person undergo a
39 72-hour treatment and evaluation pursuant to Section
40 5150 of the Welfare and Institutions Code, and that the

1 person perform weekend community service for a period
2 of one year.

3 (c) With respect to any temporary restraining order,
4 injunction, or other court order issued against a person
5 who engages in ~~conduct prohibited by subdivision (a) of~~
6 ~~Section 646.9 harassment, as defined in subdivision (b) of~~
7 *Section 527.6*, if the person is found to be using a
8 telephone in the commission of a violation of the terms of
9 that restraining order, injunction, or other court order,
10 the court may order the following:

11 (1) For a first offense, that the person perform
12 weekend community service for a period of three months
13 and, if the telephone is in the person's residence, that a
14 block be placed on the person's residential telephone to
15 stop all outgoing calls to the area code of the victim's
16 telephone for a period of three months.

17 (2) For a second offense, that the person perform
18 weekend community service for a period of six months
19 and, if the telephone is in the person's residence, that a
20 block be placed on the person's residential telephone to
21 stop all outgoing calls to the area code of the victim's
22 telephone for a period of six months.

23 (3) For a third offense, that the person perform
24 weekend community service for a period of one year, that
25 the person undergo a 72-hour treatment and evaluation
26 pursuant to Section 5150 of the Welfare and Institutions
27 Code, and, if the telephone is in the person's residence,
28 that a block be placed on the person's residential
29 telephone to stop all outgoing calls, except emergency
30 calls to 911, for a period of six months.

31 (d) With respect to any temporary restraining order,
32 injunction, or other court order issued against a person
33 who engages in ~~conduct prohibited by subdivision (a) of~~
34 ~~Section 646.9 harassment, as defined in subdivision (b) of~~
35 *Section 527.6*, if the person is found to be using public or
36 private postal, mailing, or shipping service to send a
37 letter, package, or parcel of any nature in the commission
38 of a violation of the terms of that restraining order,
39 injunction, or other court order, the court may order the
40 following:

1 (1) For a first offense, that the person perform
2 weekend community service for a period of three
3 months.

4 (2) For a second offense, that the person perform
5 weekend community service for a period of six months.

6 (3) For a third offense, that the person perform
7 weekend community service for a period of one year and
8 that the person undergo a 72-hour treatment and
9 evaluation pursuant to Section 5150 of the Welfare and
10 Institutions Code.

11 (e) With respect to any temporary restraining order,
12 injunction, or other court order issued against a person
13 who engages in ~~conduct prohibited by subdivision (a) of~~
14 ~~Section 646.9~~ *harassment, as defined in subdivision (b) of*
15 *Section 527.6*, if the person is found to be using any
16 computer or facsimile machine or equipment to
17 communicate with a victim in violation of the terms of
18 that restraining order, injunction, or other court order,
19 the court may order the following:

20 (1) For a first offense, that the person surrender the
21 computer or facsimile machine or equipment to the court
22 for impoundment or sale and that the person perform
23 community service for a period of three months.

24 (2) For a second offense, that the person surrender the
25 computer or facsimile machine or equipment to the court
26 for impoundment or sale and that the person perform
27 community service for a period of six months.

28 (3) For a third offense, that the person surrender the
29 computer or facsimile machine or equipment to the court
30 for impoundment or sale, that the person perform
31 weekend community service for a period of one year, and
32 that the person undergo a 72-hour treatment and
33 evaluation pursuant to Section 5150 of the Welfare and
34 Institutions Code.

35 (f) With respect to any temporary restraining order,
36 injunction, or other court order issued against a person
37 who engages in ~~conduct prohibited by subdivision (a) of~~
38 ~~Section 646.9~~ *harassment, as defined in subdivision (b) of*
39 *Section 527.6*, if the person is found to be using any form
40 of transportation, including, but not limited to, a bus,

1 train, bicycle, watercraft, skateboard, or aircraft, but not
2 including a motor vehicle as provided in subdivision (b),
3 in violation of the terms of that restraining order,
4 injunction, or other court order, the court may order the
5 following:

6 (1) For a first offense, where appropriate, that the
7 person surrender to the court the form of transportation
8 used for impoundment or sale and that the person
9 perform weekend community service for a period of
10 three months.

11 (2) For a second offense, where appropriate, that the
12 person surrender to the court the form of transportation
13 used for impoundment or sale and that the person
14 perform weekend community service for a period of six
15 months.

16 (3) For a third offense, where appropriate, that the
17 person surrender to the court the form of transportation
18 used for impoundment or sale, that the person perform
19 weekend community service for a period of one year, and
20 that the person undergo a 72-hour treatment and
21 evaluation pursuant to Section 5150 of the Welfare and
22 Institutions Code.

23 (g) Any person who violates a term or condition of a
24 temporary restraining order, injunction, or other court
25 order issued against the person for ~~conduct prohibited by~~
26 ~~subdivision (a) of Section 646.9~~ *harassment, as defined in*
27 *subdivision (b) of Section 527.6*, shall be required to
28 register all changes of residential address with the court
29 and the Department of Motor Vehicles. A violation of this
30 subdivision is a misdemeanor and punishable by the
31 performance of community service.

32 (h) The court may order any person found to have
33 violated a term or condition of a temporary restraining
34 order, injunction, or other court order issued against the
35 person for ~~conduct prohibited by subdivision (a) of~~
36 ~~Section 646.9~~ *harassment, as defined in subdivision (b) of*
37 *Section 527.6*, to pay any court costs resulting from that
38 violation.

39 (i) Punishment imposed under one subdivision of this
40 section precludes punishment under another subdivision

1 of this section for the same violation of a term or condition
2 of a temporary restraining order, injunction, or other
3 court order.

4 SEC. 2. No reimbursement is required by this act
5 pursuant to Section 6 of Article XIII B of the California
6 Constitution because the only costs that may be incurred
7 by a local agency or school district will be incurred
8 because this act creates a new crime or infraction,
9 eliminates a crime or infraction, or changes the penalty
10 for a crime or infraction, within the meaning of Section
11 17556 of the Government Code, or changes the definition
12 of a crime within the meaning of Section 6 of Article
13 XIII B of the California Constitution.

14 Notwithstanding Section 17580 of the Government
15 Code, unless otherwise specified, the provisions of this act
16 shall become operative on the same date that the act
17 takes effect pursuant to the California Constitution.

