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AMENDED IN SENATE JUNE 27, 2019

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AMENDED IN ASSEMBLY APRIL 30, 2019

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CALIFORNIA LEGISLATURE—2019–20 REGULAR SESSION

ASSEMBLY BILL

No. 1550

Introduced by Assembly Member Bonta
(Coauthor: Assembly Member Wicks)

February 22, 2019

An act to add Section 14724 to the Welfare and Institutions Code, relating to Medi-Cal; 52.35 to the Civil Code, and to amend Sections 148.3 and 422.7 of the Penal Code, relating to discriminatory emergency calls.

LEGISLATIVE COUNSEL'S DIGEST

AB 1550, as amended, Bonta. ~~Crisis stabilization units: psychiatric patients. Discriminatory emergency calls.~~

Existing law prohibits a governmental authority, or agent of a governmental authority, or person acting on behalf of a governmental authority, from engaging in a pattern or practice of conduct by law enforcement officers that deprives any person of rights, privileges, or immunities secured or protected by the Constitution or laws of the United States or by the Constitution or laws of California.

This bill would authorize a person to bring a civil action against any responsible party, who, motivated by the person's protected status,

knowingly causes a peace officer to arrive at a location to contact the person with the intent to, among other things, infringe upon the person's rights or cause the person to feel harassed, humiliated, or embarrassed. The bill would specify that a prevailing plaintiff who suffers harm as a result of a violation of these provisions may recover damages from the responsible party, including, but not limited to, damages for infliction of emotional distress and for damages caused by the peace officers responding to the call, and punitive damages, or, in lieu of actual damages, an award of statutory damages between \$250 and \$10,000, and reasonable attorney's fees and costs.

Existing law defines "hate crime" as a criminal act committed, in whole or in part, because of actual or perceived characteristics of the victim, including, among other things, race, religion, disability, and sexual orientation. Existing law makes a hate crime punishable as either a misdemeanor or a felony if the crime was committed against the person or property of another for the purpose of intimidating or interfering with that other person's free exercise or enjoyment of their rights and if the crime meets specified criteria, including, among other things, that the crime against the person of another included the present ability to commit violent injury or caused actual physical injury. Existing law makes a felony that is a hate crime punishable by an additional term of one, 2, or 3 years in prison. Existing law makes it a misdemeanor to, knowing the report is false, falsely report to specified governmental entities that an emergency exists. Existing law makes this crime punishable as a felony if the person knows or should know that the response to the report is likely to cause death or great bodily injury, and great bodily injury or death is sustained by any person as a result of the false report.

This bill would make a person who is falsely reported pursuant to those provisions considered a victim of the crime for the purposes of determining if the crime is a hate crime. The bill would additionally make a false report that is a hate crime punishable as a misdemeanor or a felony if it is committed for the purpose of intimidating or interfering with that other person's free exercise or enjoyment of their rights. By expanding the scope of a crime, this bill would create 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.

~~Existing law establishes the Medi-Cal program, which is administered by the State Department of Health Care Services and under which qualified low-income individuals receive health care services, including specialty mental health services and nonspecialty mental health services. The Medi-Cal program is, in part, governed and funded by federal Medicaid program provisions.~~

~~Existing law requires the department to implement managed mental health care for Medi-Cal beneficiaries through contracts with county mental health plans. Under existing law, the county mental health plans are responsible for providing specialty mental health services to enrollees.~~

~~This bill would authorize a certified crisis stabilization unit designated by a mental health plan, at the discretion of the mental health plan, to provide medically necessary crisis stabilization services to individuals beyond the service time of 24 hours, but not for more than 48 hours, when the individual needs inpatient psychiatric care or outpatient care and inpatient psychiatric beds or outpatient services are not reasonably available. The bill would require a person who is placed under, or who is already under, a 72-hour involuntary hold because the person, as a result of a mental disorder, is a danger to themselves or others, or is gravely disabled, to be credited for the time detained at a certified crisis stabilization unit. The bill would require the department to amend its contract with a mental health plan to include a provision authorizing the provision of crisis stabilization services for more than 24 hours if the mental health plan elects to provide crisis stabilization services under these provisions. The bill would require the department to require these mental health plans to complete specified duties, including to establish, only if the plan opts to offer extended services, treatment protocols, documentation standards, and administrative procedures, consistent with best practices and other evidence-based medicine, to be followed by a certified crisis stabilization unit for appropriate treatment to individuals who are provided crisis stabilization services for more than 24 hours. The bill would require a certified crisis stabilization unit that provides crisis stabilization services under these provisions to comply with specified requirements, including ensuring that a psychiatrist is available at all times to address psychiatric emergencies. The bill would require the department to seek any state~~

~~plan amendments or waivers, or amendments to existing waivers, that are necessary to implement these provisions.~~

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: ~~no~~-yes.

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

1 *SECTION 1. The Legislature finds and declares all of the*
2 *following:*

3 *(a) This measure is intended to create a path for an individual*
4 *who has been subject to a racially motivated “911” call to be able*
5 *to file a lawsuit for damages.*

6 *(b) Pursuant to Section 148.3 of the Penal Code, it is a*
7 *misdemeanor to make a false police report. This crime is*
8 *punishable by a fine not exceeding \$1,000, imprisonment in a*
9 *county jail not exceeding one year, or by both that fine and*
10 *imprisonment. However, it is also important to provide a clear a*
11 *clear legal path for an individual who feels that they have had*
12 *their civil rights violated by another individual, business, or group*
13 *to seek justice through the civil and criminal system. Currently,*
14 *only the public entity that responded to the false emergency report*
15 *is allowed to seek remedy.*

16 *(c) It is the intent of the Legislature to help end instances of*
17 *“911” calls aimed at violating the rights of individuals based upon*
18 *race, religion, sex, or any other protected class. The current*
19 *punishment for making a false police report does not address the*
20 *growing number of cases of peace officers being summoned to*
21 *violate the rights of, for example, Black and Brown individuals*
22 *for doing day-to-day activities—essentially living their lives.*

23 *(d) The States of Oregon and New York recently enacted a law*
24 *that will allow a target of an allegedly prejudiced “911” call to*
25 *file a lawsuit against the caller.*

26 *(e) People of color should have the liberty to live their lives and*
27 *to go about their business without having to be confronted by*
28 *police for doing so. These calls cause mistrust between*
29 *communities of color and peace officers that further deteriorates*
30 *community-police relations. This is especially true when the police*
31 *are summoned as forces of exclusion. Racially motivated “911”*
32 *calls can be big hurdles in effective, community-based policing.*
33 *Thus, it is up to the Legislature to help end the use of peace officers*

1 as a personal force for people who harbor racial animus—it is a
2 waste of time and resources to have the police deployed when
3 criminal activity is not occurring.

4 (f) This measure is not intended to discourage individuals who
5 are facing real danger, or who want to report a crime, from making
6 a “911” call to police. However, it will allow those who have been
7 subject to unfair and unnecessary “911” calls to regain their
8 agency by seeking justice and restitution through the criminal and
9 civil court system. Moreover, this legislation would force people
10 to check their prejudices before making an unnecessary, biased
11 “911” call.

12 SEC. 2. Section 52.35 is added to the Civil Code, immediately
13 following Section 52.3, to read:

14 52.35. (a) A person may bring a civil action in any court of
15 competent jurisdiction against any responsible party who,
16 motivated by the persons’ race, religion, sex, or any other protected
17 status, through the use of a “911” call knowingly causes a peace
18 officer to arrive at a location to contact the person with the intent
19 to do any of the following:

20 (1) Infringe upon the person’s rights under either the California
21 Constitution or the United States Constitution.

22 (2) Unlawfully discriminate against the person.

23 (3) Cause the person to feel harassed, humiliated, or
24 embarrassed.

25 (4) Cause the person to be expelled from a place in which the
26 other person is lawfully located.

27 (5) Damage the person’s reputation or standing within the
28 community.

29 (6) Damage the person’s financial, economic, consumer, or
30 business prospects or interests.

31 (b) A prevailing plaintiff who suffers harm as a result of a
32 violation of subdivision (a) may recover damages against the
33 responsible party, including, but not limited to, general damages,
34 including damages for infliction of emotional distress and for
35 damages caused by the peace officers who respond to the call,
36 special damages, and punitive damages against the responsible
37 party, or, in lieu of actual damages, an award of statutory damages
38 in an amount not exceeding ten thousand dollars (\$10,000), but
39 not less than two hundred fifty dollars (\$250). A prevailing plaintiff

1 *shall also be entitled to reasonable attorney's fees and costs in*
2 *addition to any other recovery.*

3 *(c) Nothing in this section shall preclude the application of any*
4 *other existing remedies provided by law.*

5 *SEC. 3. Section 148.3 of the Penal Code is amended to read:*

6 148.3. (a) Any individual who reports, or causes any report
7 to be made, to any city, county, city and county, or state
8 department, district, agency, division, commission, or board, that
9 an "emergency" exists, knowing that the report is false, is guilty
10 of a misdemeanor and upon conviction thereof shall be punishable
11 by imprisonment in a county jail for a period not exceeding one
12 year, or by a fine not exceeding one thousand dollars (\$1,000), or
13 by both that imprisonment and fine.

14 (b) Any individual who reports, or causes any report to be made,
15 to any city, county, city and county, or state department, district,
16 agency, division, commission, or board, that an "emergency" exists,
17 who knows that the report is false, and who knows or should know
18 that the response to the report is likely to cause death or great
19 bodily injury, and great bodily injury or death is sustained by any
20 person as a result of the false report, is guilty of a felony and upon
21 conviction thereof shall be punishable by imprisonment pursuant
22 to subdivision (h) of Section 1170, or by a fine of not more than
23 ten thousand dollars (\$10,000), or by both that imprisonment and
24 fine.

25 (c) "Emergency" as used in this section means any condition
26 that results in, or could result in, the response of a public official
27 in an authorized emergency vehicle, aircraft, or vessel, any
28 condition that jeopardizes or could jeopardize public safety and
29 results in, or could result in, the evacuation of any area, building,
30 structure, vehicle, or of any other place that any individual may
31 enter, or any situation that results in or could result in activation
32 of the Emergency Alert System pursuant to Section 8594 of the
33 Government Code. An activation or possible activation of the
34 Emergency Alert System pursuant to Section 8594 of the
35 Government Code shall not constitute an "emergency" for purposes
36 of this section if it occurs as the result of a report made or caused
37 to be made by a parent, guardian, or lawful custodian of a child
38 that is based on a good faith belief that the child is missing.

1 (d) Nothing in this section precludes punishment for the conduct
2 described in subdivision (a) or (b) under any other section of law
3 providing for greater punishment for that conduct.

4 (e) Any individual convicted of violating this section, based
5 upon a report that resulted in an emergency response, is liable to
6 a public agency for the reasonable costs of the emergency response
7 by that public agency.

8 (f) *A person falsely reported by an individual in violation of this*
9 *section may be considered the victim of the crime for the purposes*
10 *of Section 422.55.*

11 *SEC. 4. Section 422.7 of the Penal Code is amended to read:*

12 422.7. Except in the case of a person punished under Section
13 422.6, any hate crime that is not made punishable by imprisonment
14 in the state prison shall be punishable by imprisonment in a county
15 jail not to exceed one year, or by imprisonment pursuant to
16 subdivision (h) of Section 1170, or by a fine not to exceed ten
17 thousand dollars (\$10,000), or by both that imprisonment and fine,
18 if the crime is committed against the person or property of another
19 for the purpose of intimidating or interfering with that other
20 person's free exercise or enjoyment of any right secured to ~~him or~~
21 ~~her~~ *them* by the Constitution or laws of this state or by the
22 Constitution or laws of the United States under any of the following
23 circumstances, which shall be charged in the accusatory pleading:

24 (a) The crime against the person of another either includes the
25 present ability to commit a violent injury or causes actual physical
26 injury.

27 (b) The crime against property causes damage in excess of nine
28 hundred fifty dollars (\$950).

29 (c) The person charged with a crime under this section has been
30 convicted previously of a violation of subdivision (a) or (b) of
31 Section 422.6, or has been convicted previously of a conspiracy
32 to commit a crime described in subdivision (a) or (b) of Section
33 422.6.

34 (d) *The crime was a violation of Section 148.3.*

35 *SEC. 5. No reimbursement is required by this act pursuant to*
36 *Section 6 of Article XIII B of the California Constitution because*
37 *the only costs that may be incurred by a local agency or school*
38 *district will be incurred because this act creates a new crime or*
39 *infraction, eliminates a crime or infraction, or changes the penalty*
40 *for a crime or infraction, within the meaning of Section 17556 of*

1 *the Government Code, or changes the definition of a crime within*
2 *the meaning of Section 6 of Article XIII B of the California*
3 *Constitution.*

4 SECTION 1. ~~Section 14724 is added to the Welfare and~~
5 ~~Institutions Code, to read:~~

6 ~~14724. (a) A certified crisis stabilization unit designated by a~~
7 ~~mental health plan under Article 5 (commencing with Section~~
8 ~~14680) or this chapter, and authorized pursuant to Sections~~
9 ~~14021.4, 14680, and 14684, may, at the discretion of the mental~~
10 ~~health plan, provide medically necessary crisis stabilization services~~
11 ~~to individuals beyond the service time of 24 hours, but not for~~
12 ~~more than 48 hours, if the individual needs inpatient psychiatric~~
13 ~~care or outpatient care and inpatient psychiatric beds or outpatient~~
14 ~~services are not reasonably available. If a person is placed under,~~
15 ~~or is already under, a 72-hour hold pursuant to Section 5150, the~~
16 ~~person shall be credited for the time detained at a certified crisis~~
17 ~~stabilization unit addressed by this section. This section shall not~~
18 ~~be construed to encourage the placement of a 72-hour hold pursuant~~
19 ~~to Section 5150 for an individual who is at a certified crisis~~
20 ~~stabilization unit on a voluntary basis.~~

21 ~~(b) The department shall amend its contract with a mental health~~
22 ~~plan to include a provision authorizing the provision of crisis~~
23 ~~stabilization services as described in this section if the mental~~
24 ~~health plan elects to provide crisis stabilization services pursuant~~
25 ~~to this section.~~

26 ~~(c) The department shall require each mental health plan to~~
27 ~~complete both of the following:~~

28 ~~(1) Establish, only if the plan opts to offer extended services~~
29 ~~described in this section, treatment protocols, documentation~~
30 ~~standards, and administrative procedures, consistent with best~~
31 ~~practices and other evidence-based medicine, to be followed by a~~
32 ~~certified crisis stabilization unit for appropriate treatment to~~
33 ~~individuals who are provided crisis stabilization services for more~~
34 ~~than 24 hours.~~

35 ~~(2) (A) Report annually to the department the number of~~
36 ~~individuals receiving services beyond 24 hours, and how long each~~
37 ~~individual was served, to the nearest hour.~~

38 ~~(B) The department shall make that information available to the~~
39 ~~public upon request in accordance with state and federal privacy~~
40 ~~laws.~~

- 1 ~~(d) A certified crisis stabilization unit that provides medically~~
2 ~~necessary crisis stabilization services to individuals for more than~~
3 ~~24 hours shall do all of the following:~~
4 ~~(1) Provide the basic services identified in paragraph (1) of~~
5 ~~subdivision (a) of Section 1250.2 of the Health and Safety Code.~~
6 ~~(2) Ensure that a psychiatrist is available at all times to address~~
7 ~~psychiatric emergencies.~~
8 ~~(3) Provide the individual an area with suitable sleeping~~
9 ~~accommodations.~~
10 ~~(e) The department shall seek any state plan amendments or~~
11 ~~waivers, or amendments to existing waivers, that are necessary to~~
12 ~~implement this section.~~

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