
UNFINISHED BUSINESS

Bill No: SB 742
Author: Pan (D), et al.
Amended: 9/3/21
Vote: 27 - Urgency

SENATE PUBLIC SAFETY COMMITTEE: 5-0, 4/20/21
AYES: Bradford, Ochoa Bogh, Kamlager, Skinner, Wiener

SENATE APPROPRIATIONS COMMITTEE: 6-1, 5/20/21
AYES: Portantino, Bates, Bradford, Kamlager, Laird, Wieckowski
NOES: Jones

SENATE FLOOR: 33-4, 6/2/21
AYES: Allen, Archuleta, Atkins, Bates, Becker, Bradford, Caballero, Cortese,
Dodd, Durazo, Eggman, Glazer, Gonzalez, Hertzberg, Hueso, Hurtado,
Kamlager, Laird, Leyva, Limón, McGuire, Min, Newman, Ochoa Bogh, Pan,
Portantino, Roth, Rubio, Skinner, Stern, Umberg, Wieckowski, Wiener
NOES: Dahle, Grove, Jones, Wilk
NO VOTE RECORDED: Borgeas, Melendez, Nielsen

ASSEMBLY FLOOR: 54-0, 9/8/21
(ROLL CALL NOT AVAILABLE)

SUBJECT: Vaccination sites: unlawful physical obstruction, intimidation, or picketing

SOURCE: ProtectUS

DIGEST: This bill makes it a misdemeanor for a person to engage in the physical obstruction, intimidation, or picketing target at a vaccination site.

Assembly Amendments make technical and clarifying changes such as tightening some of the definitions of terms and making some organizational changes, make the bill content neutral by striking “in connection with any vaccinations services,”

clarify a lawful picketing arising out of a labor dispute is exempt, and added findings and declarations.

ANALYSIS:

Existing law:

- 1) States that Congress shall make no law ... abridging the freedom of speech, or the press; or the right of the people peaceably to assemble.... (U.S. Constitution 1st Amendment.)
- 2) Prohibits the passage of any law which restrains or abridges the liberty of speech. (Cal. Const., Art. I, Section 2(a).)
- 3) Provides that it is a misdemeanor, except upon private property, for a person to engage in picketing targeted at a funeral during the time period beginning one hour prior to the funeral and ending one hour after the conclusion of the funeral. Picketing means, protest activities engaged in by any person within 300 feet of a burial site, mortuary, or place of worship.(Penal Code Section 594.37)

This bill:

- 1) Provides that it is a misdemeanor, to knowingly approach within 30 feet of any person while a person is within 100 feet of the entrance or exit of a vaccination site and is seeking to enter or exit a vaccination site, or any occupied vehicle seeking entry or exit to a site for the purpose of obstructing, injuring, harassing, intimidating or interfering with that person or vehicle occupant. It is punishable by up to six months in jail, a fine not to exceed \$1,000, plus penalty assessments, or both.
- 2) Defines “harassing” as knowingly approaching, without consent, within 30 feet of another person or occupied vehicle for the purpose of passing a leaflet or handbill to, displaying a sign to, or engaging in oral protest, education or counseling with, that other person in a public way or on a sidewalk area.
- 3) Provides that “interfering with” means restricting a person’s freedom of movement.
- 4) Defines “intimidating” as making a true threat directed to a person or group of person with the intent of placing that person or group of persons in fear of bodily harm or death.

- 5) Defines “obstructing” as rendering ingress to or egress from a vaccination site, or rendering passage to or from a vaccination site, unreasonably difficult or hazardous..
- 6) Defines “true threat” as a statement in which the speaker means to communicate a serious expression of an intent to commit an act of unlawful violence to a particular person or group of persons regardless of whether the person actually intends to act on the threat.
- 7) Defines “vaccination site” as the physical location where vaccination services are provided, including, but not limited to, a hospital, physician’s office, clinic, or any retail space or pop-up location made available for vaccination services.
- 8) Provides that it is not a violation of this section to engage in lawful labor picketing.

Background

According to the author:

SB 742 will resolve the problem of insufficient protection for individuals receiving care at vaccination sites. The scope of COVID-19 vaccination efforts has required the use of spaces such as stadiums, fairgrounds, and pop-up sites not traditionally utilized for healthcare distribution. Current laws do not adequately balance the rights of individuals seeking healthcare with the First Amendment rights of protesters. In incidents at Dodger Stadium (<https://www.latimes.com/california/story/2021-01-31/protest-dodger-stadium-vaccination-site-angers-city-leaders-security-questions>) and demonstrations from groups like “V4V” (<https://namelyliberty.com/v4v-global-demonstration-announcement/>) have resulted in disruptions of vaccine distribution and infringed on individuals’ right to essential healthcare. The publicity and lack of consequences for anti-vaccine protesters in these incidents has only emboldened these groups to attempt similar disruptions in the future. It is imperative that we provide law enforcement with the tools to ensure the uninterrupted distribution of vaccines while ensuring protestors’ right to free speech is maintained.

FISCAL EFFECT: Appropriation: No Fiscal Com.: Yes Local: Yes

According to Assembly Appropriations:ossible cost pressures (Trial Court Trust Fund) in the low hundreds of thousands of dollars annually for increased court costs, including trial costs, given the bill creates a new misdemeanor. A defendant charged with a misdemeanor is entitled to no-cost legal representation and a jury trial. If 15 new crimes are filed annually statewide and proceed to trial resulting in the use of two days of court time, at an estimated cost of approximately \$8,000 for an eight-hour court day, the approximate cost to the trial courts would be \$240,000. Although courts are not funded on the basis of workload, increased pressure on the Trial Court Trust Fund and staff workload may create a need for increased funding for courts from the General Fund (GF) to perform existing duties

SUPPORT: (Verified 9/3/21)

ProtectUS (source)

American Academy of Pediatrics, California

California Academy of Family Physicians

California Academy of Preventive Medicine

California Association of Public Authorities for Ihss

California Children's Hospital Association

California Immunization Coalition

California Medical Association

California School Nurses Organization

California Society of Anesthesiologists

Children's Specialty Care Coalition

County Health Executives Association of California

Genup

Health Net and Its Affiliated Companies

Teens for Vaccines INC.

OPPOSITION: (Verified 9/3/21)

A Voice for Choice Advocacy

AAAP - Association of Autistic and Adhd Parents

Californians for Life

Right to Life of Kern County

V Is for Vaccine

ARGUMENTS IN SUPPORT: PotectUS, the sponsor of this bill, states:

We are writing to urge the Senate Public Safety Committee to support our sponsored bill SB 742 (Pan) the Right to Healthcare and Free Speech Act. Almost 60,000 Californians have died from COVID-19

and millions of families and businesses have suffered major loss through the pandemic, but now because of decades of virology and immunology research, scientists were able to create safe, highly effective COVID-19 vaccines within a year. However, if we do not act quickly to ensure safe and effective vaccine distribution, our efforts to protect the public may be for not.

SB 742 will work to protect people who are getting vaccinations from facing intimidation and obstruction by providing law enforcement tools to act swiftly and decisively to protect the rights and freedoms of people who choose to get vaccinated while also preserving the protestors' critical First Amendment right to peacefully assemble at a safe distance. These changes will help Californians who want to get vaccinated to do so safely, thereby helping to bring an end to this deadly pandemic.

In the most publicized incident, Californians simply seeking the COVID-19 vaccine at Dodger Stadium were stopped by a mob of extremists that brought the facility to a halt. Endangering patients and health care workers for nearly an hour, anti-vaxxers worked to intimidate and harass a relatively captive audience. Some participants were in fear during the chaos, as they were in vehicles, unsure of what was happening as they were being yelled at by anti-vaxxers (none of whom were following any CDC COVID-19 safety guidelines).

Around the state, these extremists are continuing to cause chaos and intimidate patients and health care workers. In public videos, they dress to appear to be official participants in the vaccine clinic and refuse to use the designated areas for protest citing that it is not legal. SB 742 will ensure that all jurisdictions have clear ability to set up and create a safe space to express free speech as well as ensure patients and health care workers are safe from anti-vaxx extremists.

ARGUMENTS IN OPPOSITION: V is for Vaccine opposes this bill stating:

V is for Vaccine is one of the largest vaccine risk and informed consent awareness groups in the world. We have organizers in all 50 states and in 5 countries outside of the U.S. We concentrate on informing the public about the real potential risks involved with vaccination. The impetus for SB742 appears to be the temporary closure of a COVID-19 vaccination clinic at Dodger Stadium, at the same time an activist

group was conducting a demonstration at the location. This demonstration was not held by our organization and we are unfamiliar with the individuals who conducted it. However, the testimony of persons involved with that demonstration indicates that they did not engage in any illegal activities, they did not obstruct traffic or the gate, and they did not inhibit the functioning of the vaccination clinic in any way. Reports and statements from the LA Times, the Los Angeles Police Dept. and Chief of Police Michael Moore corroborate this:

Prepared by: Mary Kennedy / PUB. S. /
9/8/21 11:30:48

**** **END** ****