

SENATE JUDICIARY COMMITTEE
Senator Thomas Umberg, Chair
2021-2022 Regular Session

SB 1131 (Newman)
Version: April 18, 2022
Hearing Date: April 26, 2022
Fiscal: Yes
Urgency: Yes
AM

SUBJECT

Safe at Home program: election workers and reproductive health care providers

DIGEST

This bill establishes an address confidentiality (or “Safe at Home”) program for election workers, as provided. The bill prohibits the names of precinct board members from being listed when posting information, as specified, and requires county elections officials to make certain information appearing on the affidavit of registration confidential upon request of an election worker. The bill also includes harassment as a basis for application in the existing Safe at Home program for reproductive health care service providers. The bill declares that it is to take effect immediately as an urgency statute.

EXECUTIVE SUMMARY

Existing law creates the “Safe at Home” address confidentiality program for victims of domestic violence, sexual assault, and stalking, and reproductive health care providers, employees, volunteers, and patients. Since the 2021 election cycle, election workers have come under increasing and more threatening attacks than ever before. This bill seeks to address these issues with proactive steps that can help election workers feel safe and secure now, without having to wait for bad actors to be investigated and prosecuted. The bill does this by creating a Safe at Home program for election workers and their immediate relatives and allowing participants to be eligible for confidential voter status. The bill requires county election officials to make specified information appearing on the affidavit of registration confidential upon request of an election worker. The bill also prohibits the names of precinct board members from being listed when posting information about precinct board members. Lastly, the bill includes harassment as a basis for application in the program for reproductive health care service providers, employees, volunteers, and patients.

The bill is sponsored by the Brennan Center and the California Voter Foundation. The bill is supported by League of Women Voters of California, the Orange County

Employees Association, and a coalition of Indivisible groups from across the state. The bill is opposed by the Right to Life League. The bill contains an urgency clause. The bill passed out of the Senate Elections and Constitutional Amendments Committee on a vote of 4 to 0.

PROPOSED CHANGES TO THE LAW

Existing law:

- 1) Establishes an address confidentiality (or “Safe at Home”) program within the Office of the Secretary of State (SOS) in order to enable state and local agencies to both accept and respond to requests for public records without disclosing the changed name or address of a victim of domestic violence, sexual assault, or stalking. Existing law permits any such adult victim, or parent or guardian acting on behalf of a minor or incapacitated person, to apply through a community-based victims’ assistance program to have an address designated by the SOS as their substitute mailing address. (Gov. Code § 6205 et seq.)
- 2) Existing law similarly allows reproductive health care providers, employees, volunteers, and patients to apply to the address confidentiality program through a community-based victims’ assistance program, as specified. (Gov. Code § 6215 et seq.) The application is required to contain certain things, including a certified statement signed by a person authorized by the reproductive health care services facility stating that the facility or any of its providers, employees, volunteers, or patients is or was the target of threats or acts of violence or harassment within one year of the date of the application. (Gov. Code § 6215.2(a)(1)(B).)
- 3) Permits an individual to seek confidential voter status and have their residence address, telephone number, and email address declared confidential upon presentation of certification that the person is a participant in the Safe at Home program, as specified. (Elec. Code § 2166.5.)
- 4) Requires a county elections official, upon application of a public safety officer and if authorized by the county board of supervisors, to make confidential an officer’s residence address, telephone number, and email address appearing on the affidavit of registration, as specified. (Elec. Code § 2166.7.)
- 5) Requires an election official to post a list of all polling places and precinct board members at specified times before an election. Requires these lists be posted at the elections official’s office and on their official website. Requires an election official to include the political party affiliation for each listed precinct board member. (Elec. Code § 12105.5.)

This bill:

- 1) Would create a Safe at Home program for election workers by permitting an adult person, who is domiciled in California, to apply to the SOS to have an address designated by the SOS to serve as the person's address, as specified and if certain conditions are met. Provides, among other requirements, that the basis for the application in the Safe at Home program is that the applicant is an election worker or immediate relative of an election worker who is fearful for their safety or the safety of their family due to their capacity or their immediate relative's capacity as an employee or contractor of an election office and that the election office or employee was the target of threats or harassment.
 - a) Defines "election worker" as a person who is employed by or contracts with the SOS or a local election office who performs election-related work and interacts with the public or is observed by the public doing election-related work. For the purposes of these provisions, an election worker is not limited to those who exclusively perform direct election-related work for the SOS or local election offices.
 - b) Defines "harassment" as conduct, including following or stalking, making phone calls, or sending correspondence, that would cause a reasonable person to fear for their safety or the safety of their immediate relative.
 - c) Defines "immediate relative" as a spouse, child, stepchild, parent-in-law, child-in-law, parent, or sibling of an election worker, or any other person who shares a household with the election worker.
- 2) Permits an individual in the election worker Safe at Home program to seek confidential voter status and have their residence address, telephone number, and email address declared confidential upon presentation of certification that the person is a participant in the Safe at Home program, as specified.
- 3) Requires a county elections official, upon application of an election worker, to make confidential that worker's residence address, telephone number, and email address appearing on the affidavit of registration, as provided.
- 4) Prohibit the names of precinct board members from being listed when posting information about precinct board members, as specified.
- 5) Includes harassment of a facility or any of its providers, employees, volunteers, or patients, as a basis for an person's application in the Safe at Home program for a reproductive health care service provider, employee, or volunteer or their families because of their affiliation with a reproductive health care services facility, as provided. Defines "harassment" as conduct, including following or stalking, making phone calls, or sending correspondence that would cause a reasonable person to fear for their safety or the safety of their immediate relative.

- 6) Provides, pursuant to the California Constitution, that the people have the right of access to information concerning the conduct of the people's business, and therefore, the meetings of public bodies and the writings of public officials and agencies are required to be open to public scrutiny. (Cal. const. art. I, § 3(b)(1).)
 - a) Requires a statute that limits the public's right of access to be adopted with findings demonstrating the interest protected by the limitation and the need for protecting that interest. (Cal. const. art. I, § 3(b)(1).)
 - b) Governs the disclosure of information collected and maintained by public agencies pursuant to the CPRA. (Gov. Code §§ 7920.000 et seq.)
 - c) States that, the Legislature, mindful of the right of individuals to privacy, finds and declares that access to information concerning the conduct of the people's business is a fundamental and necessary right of every person in this state. (Gov. Code § 7922.530.)
 - d) Provides that all public records are accessible to the public upon request, unless the record requested is exempt from public disclosure. (Gov. Code § 6253.)

- 7) The bill declares that it is to take effect immediately as an urgency statute in order to ensure the safety of California's elections workers due to the increase in documented violent threats against election officials across the country and to protect reproductive health care workers from harassment.

COMMENTS

1. Stated need for the bill

The author writes:

Free and fair elections play an essential role in a democratic society and are a hallowed cornerstone of American democracy. In recent years, however, the dedicated and diligent public servants charged with administering California's elections have been subjected to threats, intimidation, and sometimes physical violence at polling places, in their offices, and even at their homes. SB 1131 reduces the likelihood that poll workers may be subject to doxing and targeting, by allowing California's elections workers to enroll in the "Safe at Home" Program administered by the Secretary of State, which provides protection to survivors of domestic violence and people who work at reproductive care facilities. This bill also includes an alternative option that allows elections workers to withhold their private information from public records requests for those that don't wish to enroll in "Safe at Home", thereby expanding the personal protection and privacy they deserve. This legislation is vital in order to protect Californians who work tirelessly to conduct our free and fair elections.

2. Safe at Home program

With the passage of SB 489 (Alpert, Ch. 1005, Stats. 1998), the California State Legislature established the Safe at Home program within the Office of the SOS to allow victims of domestic violence to apply for a substitute address to be used in public records in order to prevent their assailants, or potential assailants, from finding their work or home address. Through subsequent legislation, the program has been expanded to include victims of sexual assault, stalking, and reproductive health care service providers, employees, volunteers, and patients. (See SB 1318 (Alpert, Ch. 562, Stats. 2000) and AB 797 (Shelley, Ch. 380, Stats. 2002).)

Upon successful application, a program participant is certified to remain in the program for four years, subject to early termination or withdrawal, and must re-certify pursuant to the SOS's renewal process if the participant wishes to continue in the program beyond the four-year enrollment period. For victims not yet of the age of majority or incapacitated persons, a parent or guardian may apply to enroll the victim into the program. Program participants may seek confidential voter status and have their residence address, telephone number, and email address declared confidential upon presentation of certification to the county elections official that the person is a participant in the Safe at Home program.

3. Election workers are under threat in ways they have never been before

According to the author and the sponsors, over the past two years those charged with administering California's elections have been increasingly subjected to threats, harassment, and intimidation. Election workers face the risk of "doxing" and harassment as the result of their names, photographs, and addresses being posted online and on social media platforms, as has happened to numerous election officials already around the country. Since November 2020, more than 15 percent of California's election officials have left their jobs. They additionally note that journalists at Reuters have documented violent threats and harassment against election officials across the country, even identifying nine of the harassers whom have not been held accountable. The U.S. Department of Justice has announced a task force to combat the problem and has brought charges against two individuals thus far.¹ Multiple states have moved to increase criminal penalties against those who threaten election workers.² In December

¹ *Justice Department Launches Task Force to Combat Threats against Election Workers*, U.S. Dept. of Justice, (July 29, 2021) available at [Justice Department Launches Task Force to Combat Threats Against Election Workers | OPA | Department of Justice](#) (as of Apr. 17, 2022).

² Rick Rouan and Deborah Barfield Berry, *Election workers faced new threats after 2020 election. Experts fear it will drive them away*. USA Today (Feb. 7, 2022) available at [Election workers faced new threats after 2020 election. Experts fear it will drive them away \(yahoo.com\)](#) (as of Apr. 17, 2022).

2020, the Michigan Secretary of State reported having armed protesters surround her home while she and her four-year-old son were inside.³

The Brennan Center for Justice and the Bipartisan Policy Center published a report attempting to learn more about what can be done to protect election administrators from harassment and other types of threats.⁴ As a result of their research, the report found that one of the key solutions for violent threats and personal safety was to provide greater protection of personally identifiable information and that existing programs that protect domestic violence victims and stalking victims could serve as a model for protecting the personal information of election workers who have been threatened.⁵

a. Election worker Safe at Home program

The bill creates a Safe at Home program for election workers and their immediate relatives domiciled in this state similar to the existing programs for victims of domestic violence victims of sexual assault, stalking, and reproductive health care service providers, employees, volunteers, and patients. It defines election worker as a person who is employed by or contracts with the SOS or a local election office who performs election-related work and interacts with the public or is observed by the public doing election-related work, and specifies that an election worker is not limited to those who exclusively perform direct election-related work for the SOS or local election offices. Immediate relative means a spouse, child, stepchild, parent-in-law, child-in-law, parent, or sibling of an election worker, or any other person who shares a household with the election worker. The bill requires that if the basis for the application in the Safe at Home program is that the applicant is an election worker or immediate relative of an election worker who is fearful for their safety or the safety of their family due to their capacity as an employee or contractor of an election office, then the application must be accompanied by certain documentation and statements, including a signed statement from a person authorized by the election office stating that that the election office or employee was the target of threats or harassment within one year from the date of application. Harassment means conduct that includes following or stalking, making phone calls, or sending correspondence, which would cause a reasonable person to fear for their safety or the safety of their immediate relative.

³ Bill Chappell, *Michigan Secretary of State Says Armed Protesters Descended on Her Home Saturday*, NPR, (Dec. 7, 2020), available at <https://www.npr.org/sections/biden-transition-updates/2020/12/07/943820889/michigan-secretary-of-state-says-armed-protesters-descended-on-her-home-saturday> (as of Apr. 21, 2022).

⁴ *Election Official Under Attack*, Brennan Center for Justice and the Bipartisan Policy Center (June 16, 2021) available at <https://www.brennancenter.org/our-work/policy-solutions/election-officials-under-attack> (as of Apr. 17, 2022.)

⁵ *Id.* at 7.

The bill includes many of the same provisions from existing Safe at Home programs, such as requiring the SOS to certify a successful applicant as a program participant for four years following the date of filing and permitting minor program participants who reach 18 years of age during their enrollment to renew as adults following the specified renewal procedures established by the SOS. (Gov. Code §§ 6206(d) & 6215.2(e).) The bill allows a participant to withdraw from the Safe at Home program at any time and authorizes the SOS to terminate a participant's certification for specified reasons, including the use of false information or using the program as subterfuge. (Gov. Code §§ 6206.7 & 6215.4.)

b. The bill provides two options to obtain confidential voter status

Existing law authorizes a person who is a participant in a Safe at Home program for victims of domestic violence, sexual assault, stalking, or reproductive health care providers, employees, volunteers, and patients to be granted confidential voter status by the county elections official upon presentation of certification that the person is a participant in a Safe at Home program. (Elec. Code § 2166.5.) This bill grants this same right to participants in the election worker Safe at Home program.

Existing law requires a county elections official, upon application of a public safety officer and if authorized by the county board of supervisors, to make confidential an officer's residential address, telephone number, and email address appearing on the affidavit of voter registration. (Elec. Code § 2166.7.) The application is required to contain certain things, including a statement, signed under penalty of perjury, that the person is a public safety officer and that a life-threatening circumstance exists to the officer or a member of the officer's family. (*Id.* at (b).) The confidentiality under this provision terminates no more than two years after commencement, as determined by a county elections official, and an applicant can reapply for confidential voter status. (*Id.* at (c).) This bill enacts substantially similar provisions for an election worker, except that the county election official is required to make the information confidential regardless if authorized by the county board of supervisors. An election worker is defined in the same manner as under the election worker Safe at Home program. The author and sponsor wanted to offer election workers the ability to obtain confidential voter status without becoming a participant in the Safe at Home program, as an election worker may not feel the need to have the heightened confidentiality provisions offered under the Safe at Home program but still want to not have their personally identifiable information held by the county elections official protected from being viewed by the public.

c. Names of precinct board members prohibited from being posted

Existing law requires election officials to post a list of all current polling places in each precinct and a list of precinct board members appointed by the 15th day before the election and not less than one week before an election. (Elec. Code § 12105.5(a).) This bill, in order to protect the names of precinct board members instead requires a list of

political party affiliation of precinct board members to be posted and specifically prohibits the names of precinct board members from being included on the list.

- d. Safe at Home program for reproductive health care providers, employees, volunteers, or patients*

Finally, the bill additionally provides that the basis for seeking participation in the Safe at Home program for reproductive health care providers, employees, volunteers, or patients can include harassment. The bill would additionally allow the certified statement signed by a person authorized by the reproductive health care services facility to state that the facility or any of its providers, employees, volunteers, or patients is or was the target of harassment in addition to threats or acts of violence within one year of the date of the application. Harassment is defined as conduct that includes: following or stalking, making phone calls, or sending correspondence that would cause a reasonable person to fear for their safety or the safety of their immediate relative. The author states that this provision was added to the bill to allow reproductive health care providers, employees, volunteers, or patients the same protections as elections workers from harassment.

4. Limitation on public's access to public records

This bill limits the public's access to public records of election workers and their immediate relatives under the Safe at Home program and through granting voter confidentiality status. Additionally, by adding harassment as a basis for seeking participation in the Safe at Home program for reproductive health care providers, employees, volunteers, or patients more persons may become participants. The bill provides that this is necessary because:

Individuals charged with administering elections and persons who work at reproductive health care facilities are increasingly subjected to violent threats, harassment, and intimidation. In order to prevent acts of violence from being committed against employees who assist in the administration of elections, and acts of harassment targeting reproductive health care workers, it is necessary for the Legislature to ensure that the home addresses of these individuals are kept confidential.

Due to the current environment for election workers and their vital importance to ensuring our system of democratic elections the finding on the need for protecting their privacy seems warranted. Additionally, adding harassment as a basis for participating in the Safe at Home program for health care providers, employees, volunteers, and patients will strengthen the ability of persons to exercise their constitutional and

statutory right to accessing abortion, therefore the finding on the need for protecting their privacy appears warranted as well.⁶

5. Statements in Support

The Brennan Center for Justice, one of the sponsors of the bill, writes:

In the spring of 2021, the Brennan Center for Justice commissioned a national survey of election officials. We also held interviews and hosted conversations, along with the Bipartisan Policy Center and the Ash Center at Harvard's Kennedy School, with nearly three dozen election officials and over thirty experts. This culminated in a report entitled "Election Officials Under Attack: How to Protect Administrators and Safeguard Democracy."²

What we learned from the survey, the interviews, and the discussions was heartbreaking. We found that roughly one in three election officials feel unsafe because of their job. Approximately one in six listed threats to their lives as a job-related concern. We also found that local election officials feel unsafe because they were, and in many cases still are, being harassed and threatened in the wake of the 2020 election. They told us that the quantity and severity of these attacks has dramatically increased as compared to past election cycles.

Several of the election workers we interviewed reported that their family members, including elderly parents and children, were harassed using crude language or threatened with violence. The voicemail of one elderly parent of an election official was filled to capacity with harassing and frightening messages. Multiple election officials told us that the persistent harassment forced them and their families to flee their homes and seek mental health treatment for their children. And when they reached out to law enforcement for help, the response was often insufficient to ensure the official, their staff, or other election workers felt safe. [...]

SB 1131 would ensure that election workers can take advantage of either the Safe at Home program or address confidentiality programs in California. The Safe at Home program provides both address confidentiality and mail forwarding, while the address confidentiality program masks a participant's address in the voter registration file. SB 1131 would also remove the requirement that those administering elections publicly post the names of pollworkers in advance of elections, while leaving in place the requirement to post pollworker party affiliations. This can boost public trust in elections without undermining pollworker security. [...]

⁶ For a more detailed analysis on the constitutional and statutory right to abortion see Sen. Judiciary Com. analysis for Sen. Bill 1142 (2021-22 reg. sess.) as amended April 7, 2022.

But it is important to supplement after-the-fact criminal accountability with proactive steps that can help election workers feel safe and secure *now*, without having to wait for bad actors to be identified, investigated, and prosecuted. SB 1131 does just that, by proactively improving election worker privacy.

Threats against election workers for doing their job are threats against democracy itself, and SB 1131 is an important step in promoting a safe and secure democracy.

6. Statements in opposition

The Right to Life League writes in opposition:

SB 1131 creates a special class of citizens entitled to special confidentiality under the law. It will amend current law to carve out a special right to enroll in the Safe At Home program for both election workers and anyone who seeks an abortion, or works or volunteers at an abortion facility if they are “fearful for their health or safety, or their families’ health or safety because of their affiliation with a reproductive health care services facility.”

The applicant must make a nominal showing that the abortion facility “or any of its providers, employees, volunteers, or patients is or was the target of threats or acts of violence within one year of the date of the application.”

This is an overbroad period that conflicts with already established criminal law by failing to include an objective test, such as a reasonable person standard, to evaluate whether the speaker intends to act on the “threat” against the facility. Such a definition may include sarcasm or protected First Amendment activities such as peaceful protests, picketing, opinionated speech or unfavorable news coverage for that matter.

SB 1131 is also unnecessary. The crime of assault is already defined and illegal under California Penal Code Section 240 as an “attempt . . . to commit a violent injury on the person of another....” SB 1131 “target of threats” language expands, confuses and conflicts with this definition.

Importantly, protection of the public to be free from intimidation or other threats is already covered by numerous penal code sections. *See* California Penal Code §§ 241, 242, 422, 422.6, 423.2, 646.9, etc.

SUPPORT

Brennan Center for Justice (sponsor)
California Voter Foundation (sponsor)
350 South Bay LA

Clean Coalition
Cloverdale Indivisible
Indivisible Alta Pasadena
Indivisible CA GreenTeam
Indivisible Marin
Indivisible Media City Burbank
Indivisible Mendocino
Indivisible Riverside
Indivisible Ross Valley
Indivisible Resistance San Diego
Indivisible San Jose
Indivisible Sacramento
Indivisible Stand Strong LA
Indivisible Stanislaus
Indivisible Sonoma County
Indivisible South Bay LA
League of Women Voters of California
Livermore Indivisible
Long Beach Alliance for Clean Energy
Orange County Employees Association
Progressive Democrats of the Santa Monica Mountains
SoCal 350
The Resistance Indivisible Northridge
Valley Women's Club of San Lorenzo Valley

OPPOSITION

Right to Life League

RELATED LEGISLATION

Pending Legislation: None known.

Prior Legislation

SB 636 (Corbett, Ch. 200, Stats. 2011), among other things, specified that a participant's personal address may be revealed after termination of certification if the participant's termination resulted from the program manager determining that false information was used in the application process or the program was used as subterfuge.

AB 2251 (Evans, Ch. 486, Stats. 2006) prohibited the public posting or display of the home address or telephone number of specified individuals who are associated with a reproductive health care service provider on the Internet.

AB 797 (Shelley, Ch. 380, Stats. 2002) expanded eligibility in the state's address confidentiality program to reproductive health care service providers, their employees and patients.

SB 1318 (Alpert, Ch. 562, Stats. 2000) expanded the Safe at Home Program to victims of stalking.

SB 489 (Alpert, Ch. 1005, Stats. 1998) established the Safe at Home program within the Office of the Secretary of State to allow victims of domestic violence to apply for a substitute address to be used in public records in order to prevent their assailants, or potential assailants, from finding their work or home address.

PRIOR VOTES:

Senate Elections and Constitutional Amendments Committee (Ayes 4, Noes 0)
