
SENATE COMMITTEE ON PUBLIC SAFETY

Senator Steven Bradford, Chair

2021 - 2022 Regular

Bill No: AB 1899 **Hearing Date:** June 21, 2022
Author: Mathis
Version: March 22, 2022
Urgency: No **Fiscal:** Yes
Consultant: SC

Subject: *Crimes: false personation*

HISTORY

Source: Author

Prior Legislation: AB 1930 (Grayson) Ch. 252, Stats. 2018
SB 1411 (Simitian), Ch. 335, Stats. 2010

Support: Arcadia Police Officers Association; Burbank Police Officers' Association; California Association of Highway Patrolmen; California Coalition of School Safety Professionals; Claremont Police Officers Association; Corona Police Officers Association; Culver City Police Officers' Association; Fullerton Police Officers' Association; Inglewood Police Officers Association; Los Angeles School Police Officers Association; Newport Beach Police Association; Palos Verdes Police Officers Association; Peace Officers Research Association of California (PORAC); Placer County Deputy Sheriffs' Association; Pomona Police Officer Association; Riverside Police Officers Association; Riverside Sheriffs' Association; Santa Ana Police Officers Association; Upland Police Officers Association

Opposition: None known

Assembly Floor Vote: 76 - 0

PURPOSE

The purpose of this bill is to prohibit the false impersonation of peace officers, firefighters, and other public officers and employees through, or on, an internet website, or by other electronic means.

Existing law provides that any person who knowingly and without consent credibly impersonates another actual person through, or on, an internet website, or by other electronic means for the purposes of harming, intimidating, threatening, or defrauding another person is guilty of a public offense punishable by a fine not exceeding \$1,000, or by imprisonment in a county jail not exceeding one year, or both. (Pen. Code, § 528.5, subs. (a) & (d).)

Existing law states that an impersonation is credible if another person would reasonably believe, or did reasonably believe, that the defendant was or is the person who was impersonated. (Pen. Code, § 528.5, subd. (b).)

Existing law provides that every person who falsely personates another in either their private or official capacity, and in such assumed character either, and does any of the following, is punishable by a fine not exceeding \$10,000, or by imprisonment in the county jail not exceeding one year, or imprisonment in the county jail for 16 months, two, or three years, or by both a fine and imprisonment:

- Becomes bail or surety for any party in any proceeding whatever, before any court or officer authorized to take such bail or surety;
- Verifies, publishes, acknowledges, or proves, in the name of another person, any written instrument, with intent that the same may be recorded, delivered, or used as true; or,
- Does any other act whereby, if done by the person falsely personated, they might, in any event, become liable to any suit or prosecution, or to pay any sum of money, or to incur any charge, forfeiture, or penalty, or whereby any benefit might accrue to the party personating, or to any other person. (Pen. Code, § 529.)

Existing law provides that any person other than one who by law is given the authority of a peace officer, who willfully wears, exhibits, or uses the authorized badge, uniform, insignia, emblem, device, label, certificate, card, or writing, of a peace officer, with the intent of fraudulently impersonating a peace officer, or of fraudulently inducing the belief that he or she is a peace officer, is guilty of a misdemeanor. (Pen. Code, § 538d.)

Existing law provides that any person, other than an officer or member of a fire department, who willfully wears, exhibits, or uses the authorized badge, uniform, insignia, emblem, device, label, certificate, card, or writing of an officer or member of a fire department or a deputy state fire marshal, with the intent of fraudulently impersonating such a person, or of fraudulently inducing the belief that they are an officer or member of a fire department or the Office of the State Fire Marshal, is guilty of a misdemeanor. (Pen. Code, § 538e.)

Existing law provides that any person, other than an employee of a public utility or district, as specified, who willfully presents themselves to a utility or district customer with the intent of fraudulently personating an employee of a public utility or district, or of fraudulently inducing the belief that they are an employee of a public utility or district, is guilty of a misdemeanor. (Pen. Code, § 538f.)

Existing law provides that any person, other than a state, county, city, special district, or city and county officer or employee, who willfully wears, exhibits, or uses the authorized badge, photographic identification card, or insignia of such an officer or employee, with the intent of fraudulently impersonating an officer or employee, or of fraudulently inducing the belief that they are a state, county, city, special district, or city and county officer or employee, is guilty of a misdemeanor. (Pen. Code, § 538g.)

Existing law provides that any person, other than an officer or member of a search and rescue unit or team, who willfully wears, exhibits, or uses the authorized badge, uniform, insignia, emblem, device, label, certificate, card, or writing of member of a search and rescue unit or team, with the intent of fraudulently impersonating such a person, or of fraudulently inducing the belief that they are an officer or member of a search and rescue unit or team, or uses the same to obtain aid, money, or assistance within this state, is guilty of a misdemeanor. (Pen. Code, § 538h.)

This bill prohibits the false impersonation of peace officers, firefighters, and other public officers and employees through, or on, an internet website, or by other electronic means.

COMMENTS

1. Need for This Bill

According to the author of this bill:

AB 1899 is a bipartisan measure that enacts a necessary modernization of California law to reflect and tackle the evolving tactics of fraudulent impersonation, and ensure that the most vulnerable segments of our society are no longer deliberately targeted and victimized.

Under existing law it is a punishable offense to wear or use the authorized uniform, badge, insignia, emblem, device, label, certificate, card, or writing of a peace officer, firefighter, and employee of a government agency or department. However, this offense only explicitly relates to the wearing or use of such items with the intent of fraudulently impersonating an officer or employee of the aforementioned positions and not for the purposes of defrauding another person. Furthermore, existing law similarly does not include any reference to such impersonation of these employees or officers via electronic means.

For those who have fallen victim to fraud, a highly traumatic experience often causes real and irreversible impacts for the victims, their families, careers, and communities. Those committing fraud through the use of impersonation deliberately target the most desperate, susceptible, and vulnerable groups such as the elderly, veterans, the economically disadvantaged, or those within the intellectual and developmental disability (IDD) community. However, existing law does not reflect the current methods of fraudulent or criminal impersonation, which have increased in frequency and sophistication, especially during the COVID-19 pandemic. Recent developments include communication via elaborate phone calls and text messages from those claiming to be from various state departments and agencies or from trusted positions in society, such as peace officers, who then attempt to manipulate a victim into disclosing personal information by either offering assistance, financial support, or through fear and intimidation.

Furthermore, fraudulent impersonation creates a significant security risk for government agencies and departments, as well as unnecessarily diverts vital resources and impedes the meaningful work of those legitimate employees and officers.

AB 1899 is common-sense measure to update the state's laws regarding impersonation via electronic means, and tackle a growing trend in fraudulent activity. Specifically, the measure clarifies the crime of impersonation via electronic means of a peace officer, firefighter, and employee of a public utility, a state or local government agency, and search and rescue team for the purposes of fraud.

2. Effect of this Legislation

Existing law prohibits the fraudulent impersonation or attempted impersonation of peace officers and other public officers and employees. These provisions proscribe willfully wearing, exhibiting, or using the authorized badge, uniform, insignia, emblem, device, label, certificate, identification card, or writing of those officers and employees with the intent of fraudulently impersonating or fraudulently inducing the belief that the person is a peace officer or and other public officer or employee. (See Pen. Code, §§ 538d-538h.)

Existing law also prohibits the credible impersonation “of another *actual person*” on an internet website, or by other electronic means for purposes of defrauding another person. (Pen. Code, § 528.5, subd. (a), emphasis added.) This law was based on another law, Penal Code section 529, which does require that the defendant impersonates a real person. (*People v. Rathert* (2000) 24 Cal. 4th 200, 205-206.) The law requires that the person falsely personated might become liable to any prosecution, or incur any charge, forfeiture, or penalty. Although “might” means nothing more than a possibility, this cannot be the case where the person impersonated is not a real person. (*People v. Stacy* (2010) 183 Cal. App 4th 1229, 1234-1235.) When SB 1411 (Simitian), Chapter 335, Statutes of 2010, the bill that exacted Penal Code section 528.5, was considered in Senate Public Safety Committee, the analysis noted that the language in the bill did not clearly provide whether or not the defendant must pretend to be a real person. (Sen. Com. on Public Safety, analysis of Sen. Bill 1411 (2009-2010 Reg. Sess.) as amended March 25, 2010, p. 11.) The bill was subsequently amended to include “actual” between the words “another” and “person.”

Thus it appears that purporting to be a peace officer or other public officer or employee generally, as opposed to an actual person who is such an officer or employee, via an internet website or by other electronic means is not specifically prohibited under Penal Code section 528.5.

This bill clarifies that the false impersonation of a peace officer, firefighter, public utility employee, state or local government agency employee or officer, and a member of a search and rescue team via an internet website, or by other electronic means for purposes of defrauding another is prohibited by law.

3. Argument in Support

According to Peace Officers Research Association of California:

Current law prohibits credibly impersonating another person on an internet website, or by other electronic means, as defined, for the purpose of harming, intimidating, threatening, or defrauding another person. A violation of this prohibition is punishable as a misdemeanor. This bill would extend this offense to include impersonation through means of an electronic communication device, as defined, including a cellular telephone or device.