

Assembly Amendment to Assembly Bill No. 123(BDR 24-733)

Proposed by: Assembly Committee on Legislative Operations and Elections

Amends: Summary: No Title: Yes Preamble: No Joint Sponsorship: Yes Digest: Yes

ASSEMBLY ACTION				Initial and Date	SENATE ACTION				Initial and Date
Adopted	☐	Lost	☐	_____	Adopted	☐	Lost	☐	_____
Concurred In	☐	Not	☐	_____	Concurred In	☐	Not	☐	_____
Receded	☐	Not	☐	_____	Receded	☐	Not	☐	_____

EXPLANATION: Matter in (1) *blue bold italics* is new language in the original bill; (2) variations of green bold underlining is language proposed to be added in this amendment; (3) ~~red strikethrough~~ is deleted language in the original bill; (4) ~~purple double strikethrough~~ is language proposed to be deleted in this amendment; (5) orange double underlining is deleted language in the original bill proposed to be retained in this amendment.

ASSEMBLY BILL NO. 123—~~[ASSEMBLYMEMBER]~~ ASSEMBLYMEMBERS NADEEM, NGUYEN, D’SILVA, GONZÁLEZ, MILLER, TORRES-FOSSETT; JACKSON, MONROE-MORENO AND MOSCA

PREFILED JANUARY 27, 2025

JOINT SPONSOR: SENATOR NGUYEN

Referred to Committee on Legislative Operations and Elections

SUMMARY—Revises provisions relating to elections communications. (BDR 24-733)

FISCAL NOTE: Effect on Local Government: Increases or Newly Provides for Term of Imprisonment in County or City Jail or Detention Facility.
Effect on the State: No.

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EXPLANATION – Matter in ***bolded italics*** is new; matter between brackets ~~omitted material~~ is material to be omitted.

AN ACT relating to elections communications; prohibiting a person ~~from during any speech or other communication made in the course of his or her political campaign,~~ from making certain statements which threaten ~~the life of any other,~~ or intimidate a candidate for public office; authorizing a person to notify the Secretary of State of a violation of such a prohibition; requiring the Secretary of State to take certain actions upon the receipt of such notice; providing penalties; and providing other matters properly relating thereto.

Legislative Counsel’s Digest:

~~{The United States Supreme Court has held that: (1) a “true threat” is an unprotected category of communication which subjects a person to the fear of violence and to the many kinds of disruption that fear engenders; and (2) the First Amendment of the United States Constitution requires a speaker who communicates a true threat to act recklessly when making such a statement. (Counterman v. Colorado, 600 U.S. 66, 74-81 (2023)) The Supreme Court has further held that a person acts recklessly when he or she “consciously disregards a substantial and unjustifiable risk that the conduct will cause harm to another.” (Counterman, 600 U.S. at 79 (quoting Voisine v. U.S., 579 U.S. 686, 691 (2016))}~~

Existing law provides that a person is guilty of harassment if he or she, without lawful authority, knowingly makes certain threats and, by words or conduct, places the person threatened in reasonable fear that the threat will be carried out. Existing law further provides that a person who is guilty of harassment is: (1) for the first offense, guilty of a misdemeanor; and (2) for the second or any subsequent offense, guilty of a gross misdemeanor. (NRS 200.571)

~~{This}~~ Section 2 of this bill prohibits a person from, ~~{during any speech}~~ directly or ~~{other communication made in}~~ indirectly addressing any threat or intimidation to a

candidate for public office if the ~~[course of his]~~ person knows or ~~[her political campaign, threatening]~~ has reason to know that the ~~[life of any other person;]~~ threat or intimidation communicates the intent, either immediately or in the future, to cause or induce another to cause: (1) ~~[with conscious disregard for the substantial and unjustifiable risk]~~ bodily injury to the candidate or another who the person who knows or has reason to know is a family member of ~~[harm to another caused by his or her speech]~~ the candidate; or ~~[communication; and]~~ (2) ~~[in a manner which places the person who is]~~ physical damage to the ~~[subject]~~ property of the ~~[threat in reasonable fear that the threat will be carried out. This bill]~~ candidate or another who the person knows or has reason to know is a family member of the candidate. Section 2 further provides that a person who violates the provisions of ~~[this bill]~~ section 2 is: (1) for the first offense, guilty of a misdemeanor; and (2) for the second or any subsequent offense, guilty of a gross misdemeanor.

Section 3 of this bill authorizes a person who believes that the provisions of section 2 have been violated to notify the Secretary of State in writing of the alleged violation. Upon receipt of such notice, section 3 requires the Secretary of State to conduct an investigation and, if the Secretary of State determines that reasonable suspicion exists that a violation has occurred, requires the Secretary of State to, as soon as practicable, refer the matter to the Attorney General for a determination of whether to institute proceedings to enforce the provisions of section 2. Section 3 further requires the Secretary of State to, within 30 days after the receipt of a notice of an alleged violation, issue a written report to the candidate who is the subject of the threat or intimidation that includes: (1) a description of the alleged violation; (2) the results of the investigation undertaken; and (3) whether the Secretary of State referred the matter to the Attorney General.

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN
SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. Chapter 293 of NRS is hereby amended by adding thereto ~~[a new section to read as follows:]~~ the provisions set forth as sections 2 and 3 of this act.

Sec. 2. 1. A person shall not ~~[, during any speech]~~ directly or ~~[other communication made in]~~ indirectly address any threat or intimidation to a candidate for public office if the ~~[course of his]~~ person knows or ~~[her political campaign, threaten]~~ has reason to know that the threat or intimidation communicates the ~~[life of any other person;]~~ intent, either immediately or in the future, to cause or induce another to cause:

(a) ~~[With conscious disregard for the substantial and unjustifiable risk]~~ Bodily injury to the candidate or another who the person knows or has reason to know is a family member of ~~[harm to another caused by his or her speech]~~ the candidate; or ~~[communication; and]~~

(b) ~~[In a manner which places the person who is]~~ Physical damage to the ~~[subject]~~ property of the ~~[threat in reasonable fear that the threat will be carried out;]~~ candidate or another who the person knows or has reason to know is a family member of the candidate.

2. Nothing in this section shall be construed as to prohibit a person from engaging in any constitutionally protected exercise of free speech, including political hyperbole.

3. A person who violates the provisions of subsection 1:

(a) For the first offense, is guilty of a misdemeanor.

(b) For the second or any subsequent offense, is guilty of a gross misdemeanor.

Sec. 3. 1. A person who believes that the provisions of section 2 of this act have been violated may notify the Secretary of State in writing of the alleged violation.

1 2. Upon receipt of a notice of an alleged violation pursuant to subsection 1,
2 the Secretary of State shall conduct an investigation and if the Secretary of State
3 determines that reasonable suspicion exists that a violation of section 2 of this act
4 has occurred, the Secretary of State shall, as soon as practicable, refer the matter
5 to the Attorney General for a determination of whether to institute proceedings in
6 a court of competent jurisdiction to enforce the provisions of section 2 of this act.

7 3. The Secretary of State shall, within 30 days after the receipt of a notice of
8 an alleged violation pursuant to subsection 1, issue a written report to the
9 candidate who is the subject of the threat or intimidation that includes:

10 (a) A description of the alleged violation;

11 (b) The results of the investigation undertaken by the Secretary of State; and

12 (c) Whether the Secretary of State referred the matter to the Attorney
13 General pursuant to subsection 2.