
SENATE COMMITTEE ON APPROPRIATIONS

Senator Anthony Portantino, Chair
2021 - 2022 Regular Session

AB 557 (Muratsuchi) - Hate crimes: vertical prosecution

Version: June 21, 2022

Urgency: No

Hearing Date: August 1, 2022

Policy Vote: PUB. S. 5 - 0, PUB. S. 5 - 0

Mandate: No

Consultant: Matthew Fleming

Bill Summary: AB 557 would, subject to an appropriation, require the Department of Justice (DOJ) to establish a grant program for the purpose of creating, supporting, or expanding vertical prosecution units for the prosecutions of hate crimes.

Fiscal Impact:

- DOJ: The DOJ reports costs of approximately \$1 million annually until 2028-29 to establish the Hate Crime Vertical Prosecution Pilot Grant Program (HCVP), for the purpose of creating, supporting, or expanding vertical prosecution units for the prosecutions of hate crimes (General Fund). Staff notes unknown cost pressures, potentially in the millions to tens of millions to the General Fund in 2023-24 and ongoing through 2028-29.

Background: A hate crime is a crime that is committed not out of animosity toward the victim as an individual, but out of hostility toward the group to which the victim belongs. Existing law protects the following characteristics under the hate crime statute:

- Disability;
- Gender;
- Nationality;
- Race or ethnicity;
- Religion;
- Sexual orientation; and,
- Association with a person or group with one or more of these actual or perceived characteristics.

There have been several reports in recent years that hate crimes are incrementally increasing. During the Covid-19 pandemic, there has been a rise in hate crimes targeting Asian Americans, in particular. More recently, there has been an increase in crimes against Black people. DOJ's annual hate crime report found a 31% increase in hate crimes in California, from 1,015 to 1,330 in 2020, fueled mainly by a jump in crimes targeting Black people. While hate crimes involving racial bias overall increased 67.3 percent, hate crimes targeting Black increased 87.7% from the previous year.

"Vertical Prosecution" refers to a method in which a prosecutor is assigned to the case from the initial point of referral to the completion of the prosecution. Many argue this method of prosecution results in continuity and improved prosecution success, as well as benefits for crime victims, such as allowing prosecutors to build a rapport with victims by remaining with the case from intake to sentencing, which ensures that victims do not have to tell their story repeatedly to prosecutors at various stages of the case. The

prosecutor may develop ongoing relationships with community organizations and be able to connect victims to appropriate resources.

There are several county prosecutors' offices have special units to prosecute hate crimes through vertical prosecution, including Sacramento County and San Diego County.

This bill would establish, subject to an appropriation of funds by the Legislature, a vertical prosecution grant program to be administered by DOJ to award one-time grants to prosecutorial agencies for the purpose of creating, supporting, or expanding vertical prosecution units for the prosecution of hate crimes. The Hate Crime Vertical Prosecution (HCVP) grant program, would be subject to appropriation by the Legislature, and administered by DOJ. The grants are to be made on a competitive basis to selected applicants in a manner and in an amount determined by DOJ. The bill would also require DOJ to provide a report to the Legislature summarizing the data provided by grant recipients and analyzing the effectiveness of vertical prosecution programs in better serving hate crime victims and achieving just, equitable, and appropriate resolutions to hate crime cases, and making policy recommendations to the Legislature. This bill's provisions would sunset on July 1, 2029.

Proposed Law:

- Establishes the HCVP grant program to be administered by DOJ.
- Requires DOJ, beginning January 1, 2023 and subject to an appropriation of funds by the Legislature, to award grants to prosecutorial agencies for the purpose of creating, supporting, or expanding vertical prosecution units for the prosecution of hate crimes. These units shall be primarily focused on better serving hate crime victims and achieving just, equitable, and appropriate resolutions to hate crime cases.
- Provides that one-time HCVP grants shall be made on a competitive basis to selected applicants in a manner and in an amount determined by DOJ.
- Provides that DOJ may use no more than 5 percent of the funds appropriated for HCVP for the costs of administering the program.
- Prohibits grant recipients from using grant funds to supplant existing spending for vertical prosecutions of hate crimes.
- Requires, by no later than July 1, 2028, each grant recipient to prepare and submit a report to DOJ, in a form prescribed by DOJ, that includes any relevant data requested by DOJ.
- Requires, by not later than January 1, 2029, DOJ to prepare and submit a report to the Legislature summarizing the data provided by grant recipients and analyzing the effectiveness of vertical prosecution programs in better serving hate crime victims and achieving just, equitable, and appropriate resolutions to hate crime cases, and making policy recommendations to the Legislature.

- Provides that DOJ shall make evaluations of the grant program available to the public.
- Defines terms for purposes of the bill.
- Contains a sunset date of July 1, 2029.

Related Legislation: AB 1947 (Ting, 2022) would require local law enforcement agencies to adopt a hate crimes policy, and require the Department of Justice (DOJ) to monitor compliance with this mandate. The bill would also require the Commission on Peace Officer Standards and Training (POST) to develop a model hate crime policy. AB 1947 is pending in the Assembly Appropriations Committee.

Staff Comments: The DOJ further reports that it anticipates needing 6.0 positions through 2028-29. Those include 1.0 Deputy Attorney General and the legal complement of 1.0 Legal Secretary to develop the grant process, evaluate the grant applications and to administer the grant. Additionally, the Executive Unit, within the Criminal Law Division, will require 1.0 Associate Governmental Program Analyst (AGPA) and 1.0 Office Technician-Typing to create reporting forms, collect the reporting data and help with the final report that will be due to the Legislature.

The DOJ based its estimate on a \$30 million grant program. The Application Development Bureau (ADB), estimates it would require \$46,000 annually in FY 2023-24 through FY 2028-29 for Software and Data Processing costs that would include computing, storage, server operating system, and database storage costs. Additionally, the DOJ Research Center (DOJRC) would require a Research Data Specialist II and a Research Data Analyst II to provide various duties and support for grant program. The DOJRC would also require \$4,200 in 2023-24 through 2028-29 for an annual software license.

Staff notes that this bill, as written, is subject to an appropriation by the Legislature, but it was not funded in the 2022-23 budget. Therefore, funding is not likely to be secured until July 2023, when the 2023-24 budget is passed.

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