
THIRD READING

Bill No: AB 557
Author: Muratsuchi (D)
Amended: 6/21/22 in Senate
Vote: 21

PRIOR VOTES NOT RELEVANT

SENATE PUBLIC SAFETY COMMITTEE: 5-0, 6/28/22
AYES: Bradford, Ochoa Bogh, Kamlager, Skinner, Wiener

SENATE APPROPRIATIONS COMMITTEE: 7-0, 8/11/22
AYES: Portantino, Bates, Bradford, Jones, Laird, McGuire, Wieckowski

SUBJECT: Hate crimes: vertical prosecution

SOURCE: Author

DIGEST: This bill requires the Department of Justice (DOJ) to establish a grant program for the purpose of creating, supporting, or expanding vertical prosecution units for the prosecution of hate crimes.

ANALYSIS:

Existing law:

- 1) States that the Legislature finds and declares that it is the right of every person, regardless of actual or perceived race or ethnicity, religion, gender, gender identity, gender expression, nationality, disability, sexual orientation, or association with a person or group with these actual or perceived characteristics, to be secure and protected from fear, intimidation, and physical harm caused by the activities of violent groups and individuals. (Pen. Code, § 11410.)

- 2) Defines “hate crime” as any criminal act committed, in whole or in part, because of one or more of the following actual or perceived characteristics of the victim:
 - a) Disability;
 - b) Gender;
 - c) Nationality;
 - d) Religion;
 - e) Sexual orientation; and,
 - f) Association with a person or group with one or more of these actual or perceived characteristics. (Pen. Code, § 422.55, subd. (a).)
- 3) Defines “association with a person or group with these actual or perceived characteristics” as including advocacy for, identification with, or being on the ground owned or rented by, or adjacent to, any of the following: a community center, educational facility, family, individual, office, meeting hall, place of worship, private institution, public agency, library, or other entity, group, or person that has, or is identified with people who have, one or more of those characteristics listed in the definition of “hate crime.” (Pen. Code, § 422.56, subd. (a).)
- 4) Defines “in whole or in part because of” to mean that the bias motivation must be a cause in fact of the offense, whether or not other causes also exist. When multiple concurrent motives exist, the prohibited bias must be a substantial factor in bringing about the particular result. There is no requirement that the bias be a main factor, or that the crime would not have been committed but for the actual or perceived characteristic. (Pen. Code, § 422.56, subd. (d).)
- 5) Provides that “victim” includes, but is not limited to, a community center, educational facility, entity, family, group, individual, office, meeting hall, person, place of worship, private institution, public agency, library, or other victim or intended victim of the offense. (Pen. Code, § 422.56, subd. (i).)
- 6) Provides that a conviction for violating or interfering with the civil rights of another on the basis of actual or perceived characteristics of the victim that fit the hate crime definition shall be punished by imprisonment in a county jail not to exceed one year, or by a fine not to exceed five thousand dollars (\$5,000), or by both the above imprisonment and fine, and the court shall order the

defendant to perform a minimum of community service, not to exceed 400 hours, to be performed over a period not to exceed 350 days, during a time other than their hours of employment or school attendance. (Pen. Code, § 422.6, subd. (c).)

- 7) Makes any other crime that is not punishable by imprisonment in the state prison punishable as an alternate felony-misdemeanor, “wobbler,” if the crime is committed against the person or property of another for the purpose of intimidating or interfering with that other person’s free exercise or enjoyment of any right secured to him or her by the Constitution or laws of this state or by the Constitution or laws of the United States under any of the following circumstances, which shall be charged in the accusatory pleading:
 - a) The crime against the person of another either includes the present ability to commit a violent injury or causes actual physical injury;
 - b) The crime against property causes damage in excess of nine hundred fifty dollars (\$950); or,
 - c) The person charged with a crime under this section has been convicted previously of a hate crime or conspiracy to commit a hate crime, as specified. (Pen. Code, § 422.7.)
- 8) Allows a court to impose a hate crime enhancement to add a term of one, two, or three years in state prison, at the court’s discretion. (Pen. Code, § 422.75.)
- 9) Specifies that except when the hate crime enhancement is imposed, the fact that a person committed a felony or attempted to commit a felony that is a hate crime shall be considered a circumstance in aggravation of the crime in imposing one of three terms specified in statute. (Pen. Code, § 422.76.)
- 10) Authorizes each state law enforcement agency to adopt a hate crime policy. (Pen. Code, § 422.87, subd. (a).)
- 11) Requires, subject to funding, the Attorney General to direct local law enforcement agencies to report to the DOJ information relative to hate crimes. (Pen. Code, § 13023.)

This bill:

- 1) Establishes the Hate crime Vertical Prosecution Pilot Grant Program (HCVP) to be administered by DOJ.

- 2) 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.
- 3) 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.
- 4) Requires DOJ to do all of the following to administer the grant program:
 - a) Specify the form of the application and information required to be submitted by each applicant;
 - b) Specify the criteria DOJ shall consider in selecting grant awardees; and,
 - c) Select the number of awards to be granted.
- 5) States that DOJ may use no more than 5 percent of the funds appropriated for HCVP for the costs of administering the program.
- 6) Prohibits grant awardees from using grant funds to supplant existing spending for vertical prosecutions of hate crimes.
- 7) 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.
- 8) 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.
- 9) States that DOJ shall make evaluations of the grant program available to the public.
- 10) Provides the following definitions:
 - a) “Prosecutorial agency” means “a district attorney, city attorney, or other governmental entity responsible for the prosecution of crimes within a local jurisdiction.”

- b) “Vertical prosecution” refers to having the same individual prosecutor assigned to a case from the initial criminal investigation through the sentencing of the offender.

11) Contains a sunset date of July 1, 2029.

Comments

According to the author of this bill:

Anti-Asian rhetoric surrounding the COVID-19 pandemic has led to a dramatic spike in verbal and physical assaults against Asian Americans. According to the latest report from Stop AAPI Hate, over 10,000 anti-Asian hate incidents have occurred nationwide between March 2020 and December 2021 with over 4,000 of those occurring in California.

The California Attorney General’s Office recommends prosecuting hate crimes vertically – meaning a single prosecutor handles a case from start to finish – to both promote accurate and consistent prosecution and provide continuity for the victim.

This bill establishes a pilot grant program for District Attorney offices to create or expand vertical prosecution units for hate crimes. In addition to assigning a single prosecutor to each hate crime case, these units will also connect victims with victim advocates.

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

According to the Senate Appropriations Committee, “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.”

SUPPORT: (Verified 8/11/22)

Los Angeles County District Attorney’s Office
San Francisco Bay Area Rapid Transit District
The Arc and Cerebral Palsy California Collaboration

OPPOSITION: (Verified 8/11/22)

None received

Prepared by: Stella Choe / PUB. S. /
8/13/22 9:56:10

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