

CONCURRENCE IN SENATE AMENDMENTS
AB 655 (Kalra)
As Amended August 18, 2022
Majority vote

SUMMARY

Requires public agencies employing peace officers to investigate current and prospective peace officers regarding engagement in hate groups, participation in hate group activities, or public expressions of hate, as specified, and provides that certain findings of those investigations would constitute grounds for denial or termination of employment as a peace officer.

Senate Amendments

- 1) Specify that any public expressions of hate be explicitly made.
- 2) Clarify that, notwithstanding any other law, an agency employing a peace officer may investigate an allegation of a peace officer committing a specified hate-related activity.

COMMENTS

As Passed by the Assembly, this bill:

- 1) Found and declared that the public has a compelling interest in law enforcement transparency as it is essential to having a just and democratic society.
- 2) Required that any background investigation of a candidate for a peace officer position include an inquiry into whether the candidate has ever been a member of a hate group, participated in a hate group activity, or advocated public expressions of hate.
- 3) Provided that the hiring agency must deny employment to a candidate for a peace officer position if, during a preemployment background, it is determined that in the past 7 years and since 18 years of age, the candidate has or is engaged in a specified hate-related activity.
- 4) Provided that a candidate for a peace officer position shall not be ineligible to be hired pursuant to these provisions if the candidate has ceased all activities related to hate groups and public expressions of hate at least 7 years before the inquiry was made.
- 5) Required any public agency employing peace officers to investigate, or cause to be investigated by the appropriate oversight agency, any internal complaint or complaint from a member of the public that alleges the a peace officer employed by the agency has, in the previous seven years and since 18 years of age, engaged in a specified hate-related activity.
- 6) Provided that an agency shall remove from employment as a peace officer, any peace officer against whom a complaint described above is sustained, as specified.
- 7) Mandated that the Department of Justice shall adopt and promulgate guidelines for the investigation and adjudication of complaints described above by a public agency or oversight agency.

- 8) Provided that nothing in the provision regarding the investigation of internal or public complaints authorizes or requires adverse action to be taken against any peace officer who engages in any activities described above as part of an undercover assignment, as specified, or in any undercover work as part of any bona fide academic or journalistic research.
- 9) Provided that notwithstanding existing law, any record relating to an investigation of a complaint described above in which a sustained finding was made by the public agency or oversight agency that a peace officer has engaged in a specified hate-related activity, shall not be confidential and shall be made available for public inspection.
- 10) Provided that a record disclosed pursuant to the provision above may be redacted as follows:
 - a) To remove personal data or information, such as a home address, telephone number, or identities of family members;
 - b) To preserve the anonymity of complainants and witnesses;
 - c) To protect confidential medical, financial, or other information of which disclosure is specifically prohibited by federal law or would cause an unwarranted invasion of personal privacy that clearly outweighs the strong public interest in records about misconduct and serious use of force by peace officers and custodial officers; and,
 - d) Where there is a specific, articulable, and particularized reason to believe that disclosure of the record would pose a significant danger to the physical safety of the peace officer or another person.
- 11) Defined several terms for the purposes of its provisions, including: genocide, hate group, membership or participation in a hate group, peace officer, and public expression of hate.

According to the Author

"Over the past fifteen years, the FBI has identified organizations committed to 'domestic terrorism' that include militia extremists and white supremacist extremists with active links to law enforcement. Without any coordinated federal response to this prevalent issue, state action is long overdue. Sheriff's departments across our state have been plagued by texting, email, and social media scandals where officers exchanged racist and homophobic messages. Continued failure to address extremism, racism, and bias among peace officers enables this behavior to continue and contributes to the erosion of public confidence in law enforcement.

To increase public trust in law enforcement AB 655 will help root out those who would jeopardize public safety with their extremist and violent behavior. Specifically, The CLEAR Act would ensure that all peace officers in the state of California who apply for employment undergo a background check that includes examining whether they have participated in a hate group or advocated for public expressions of hate or violence. Furthermore, discovery of the aforementioned behavior can become grounds for disciplinary review and termination."

Arguments in Support

According to the bill's co-sponsor, the *California Faculty Association*, "After the insurrection we witnessed on January 6, 2021 at the U.S. Capitol building by right wing extremists with the apparent cooperation, participation, and support of some law enforcement and military personnel, the threat that extremist infiltration poses to equal justice and the rule of law is more

evident than ever before. Continued failure to address extremism, racism, and bias among peace officers contributes to the erosion of public confidence in the legitimacy and fairness of our justice system.

The CLEAR Act would ensure that candidates applying for employment as peace officers in the state of California undergo a background check that includes screening whether that individual holds official membership in a hate group or has participated in public expressions of hate or violence. Additionally, discovery of these expressions, membership, or participation with hate groups can become grounds for disciplinary review and termination of peace officers.

CFA believes that AB 655 will increase public trust in law enforcement as it roots out those who would jeopardize public safety with extremist and violent behavior."

Arguments in Opposition

According to the *Eagle Forum of California*, "The First Amendment protects our right to practice our religion and the freedom of speech. AB 655 appears to be a blatant unconstitutional violation of those rights and abuse of power by our elected representatives. We are concerned by the broad, vague and arbitrary definition of what constitutes hate speech and hate organizations. Individuals and/or organizations who hold different political or religious beliefs could be arbitrarily declared hateful. According to the Cato Institute Oct. 2017 study by Emily Ekins, 'It is difficult to agree on a definition of hate speech, and consequently it may be hard to regulate. The idea of upholding free speech protection but also banning hate speech may work better in theory than in practice; 59% of American say people should be allowed to express unpopular opinions in public, even those that are deeply offensive to other people. The majority of Americans don't want to fire people from their jobs because of their political beliefs.' " "

FISCAL COMMENTS

Unknown

VOTES:

ASM PUBLIC SAFETY: 5-3-0

YES: Jones-Sawyer, Bauer-Kahan, Santiago, Wicks, Lee

NO: Lackey, Quirk, Seyarto

ASM APPROPRIATIONS: 12-3-1

YES: Holden, Bryan, Calderon, Luz Rivas, Gabriel, McCarty, Levine, Quirk, Robert Rivas, Akilah Weber, Stone, Mullin

NO: Bigelow, Davies, Fong

ABS, ABST OR NV: Megan Dahle

ASSEMBLY FLOOR: 48-18-10

YES: Aguiar-Curry, Arambula, Bauer-Kahan, Bennett, Berman, Bloom, Boerner Horvath, Mia Bonta, Bryan, Burke, Carrillo, Cervantes, Friedman, Gabriel, Cristina Garcia, Eduardo Garcia, Gipson, Gray, Holden, Irwin, Jones-Sawyer, Kalra, Lee, Levine, Low, Maienschein, McCarty, Medina, Mullin, Muratsuchi, Nazarian, O'Donnell, Petrie-Norris, Quirk, Quirk-Silva, Reyes, Luz Rivas, Robert Rivas, Salas, Santiago, Stone, Ting, Villapudua, Ward, Akilah Weber, Wicks, Wood, Rendon

NO: Bigelow, Chen, Cunningham, Megan Dahle, Davies, Flora, Fong, Gallagher, Kiley, Lackey, Mathis, Mayes, Nguyen, Patterson, Seyarto, Smith, Voepel, Waldron

ABS, ABST OR NV: Calderon, Choi, Cooley, Cooper, Daly, Grayson, Ramos, Rodriguez, Blanca Rubio, Valladares

SENATE FLOOR: 30-0-10

YES: Allen, Archuleta, Atkins, Becker, Bradford, Caballero, Cortese, Dodd, Durazo, Eggman, Glazer, Gonzalez, Hertzberg, Hueso, Kamlager, Laird, Leyva, Limón, McGuire, Min, Newman, Ochoa Bogh, Pan, Portantino, Rubio, Skinner, Stern, Umberg, Wieckowski, Wiener

ABS, ABST OR NV: Bates, Borgeas, Dahle, Grove, Hurtado, Jones, Melendez, Nielsen, Roth, Wilk

UPDATED

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