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## SENATE COMMITTEE ON APPROPRIATIONS

Senator Anthony Portantino, Chair  
2023 - 2024 Regular Session

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### SB 64 (Umberg) - Hate crimes: search warrants

**Version:** January 4, 2023

**Urgency:** No

**Hearing Date:** April 10, 2023

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

**Mandate:** No

**Consultant:** Matthew Fleming

**Bill Summary:** AB 64 would authorize a search warrant to be issued on the grounds that the property or things to be seized consists of evidence that tends to show that certain misdemeanor hate crimes have occurred or are occurring.

**Fiscal Impact:** Unknown court workload cost pressures to review and authorize additional application for search warrants and adjudicate additional misdemeanor hate crimes cases (Special Fund – Trial Court Trust Fund, General Fund). See Staff Comments for additional detail.

**Background:** According to the most recent hate crimes report by the Attorney General, overall hate crimes reported in California increased 32.6% from 2020 to 2021 and are at their highest reported level since 2001. Key findings of the report include the following:

- Overall, reported hate crime events increased 32.6% from 1,330 in 2020 to 1,763 in 2021;
- Anti-Black bias events were the most prevalent, increasing 12.5% from 456 in 2020 to 513 in 2021;
- Hate crime events motivated by a sexual orientation bias increased 47.8% from 205 in 2020 to 303 in 2021;
- Anti-Asian bias events increased 177.5% from 89 in 2020 to 247 in 2021;
- Anti-Hispanic or Latino bias events increased 29.6% from 152 in 2020 to 197 in 2021;
- Among hate crime events involving a religious bias, anti-Jewish bias events were the most prevalent and increased 32.2% from 115 in 2020 to 152 in 2021; and
- From 2020 to 2021, the number of cases filed for prosecution by district attorneys and elected city attorneys involving hate crime charges increased by 30.1%.

Due to the increased in reported hate crime events, this bill seeks to expand the use of search warrants to include specified misdemeanor hate crimes.

Generally, search warrants are only authorized in felony cases. Penal Code section 1524 provides the statutory grounds for the issuance of warrants. Under these provisions, a search warrant may be issued "[w]hen property or things were used as the

means to commit a felony." However, there are other enumerated circumstances that authorize a search warrant regardless of whether the crime was a felony or misdemeanor, such as "[w]hen the property subject to search was stolen or embezzled." (Pen. Code, § 1524, subd. (a)(1).) Additionally, Penal Code section 1524 provides that a search warrant may be issued "[w]hen the property or things are in the possession of any person with the intent to use them as a means of committing a public offense. . . ." (Pen. Code, § 1524, subd. (a)(3).) A "public offense" is defined as crimes which include felonies, misdemeanors, and infractions.

**Proposed Law:** Authorizes a search warrant when the property or things to be seized consists of evidence that tends to show that a hate crime for interference with the civil rights of an individual because of their status in a protected class has occurred or is occurring.

**Related Legislation:**

- AB 539 (Levine), Ch. 342, Stats. of 2017, authorized a search warrant to be issued on the grounds that the property or things to be seized consist of evidence that tends to show that a violation of the above described crime of disorderly conduct has occurred or is occurring.
- AB 539 (Levine), Ch. 118, Stats. of 2015, authorized the issuance of a search warrant to compel a blood draw from a person where it constitutes evidence that tends to show a violation of operating a boat while under the influence of alcohol or drugs.
- AB 1104 (Rodriguez), Ch. 124, Stats. of 2015, authorized the issuance of a search warrant when the property or things to be seized are controlled substances or any device, contrivance, instrument, or paraphernalia used for unlawfully using or administering a controlled substance.

**Staff Comments:** It is unknown how many additional search warrant applications will be filed, nor how many prosecutions for misdemeanor hate crimes will be brought as a result of the implementation of this bill. However, it generally costs about \$1,000 to operate a courtroom for one hour. Consequently, if the additional applications and cases take 50 or more hours of court involvement across the State, the cost pressures of this measure would surpass the Suspense File threshold.

Although courts are not funded on the basis of workload, increased staff time and resources may create a need for increased funding for courts from the General Fund (GF) to perform existing duties. Numerous trial court operations are funded through the imposition and collection of criminal fines and fees. However, the Legislature has reduced and eliminated criminal fines and fees over the past decade. As a result, the 2023-24 proposed budget anticipates an ongoing annual allocation of \$109.3 million from the GF to backfill declining revenue to the Trial Court Trust Fund.

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