

AMENDED IN ASSEMBLY APRIL 12, 2004

CALIFORNIA LEGISLATURE—2003–04 REGULAR SESSION

ASSEMBLY BILL

No. 2428

Introduced by Assembly Member Chu

February 19, 2004

An act to amend Section 422.95 of, and to add Sections 422.96 and 422.97 to, the Penal Code, relating to hate crimes.

LEGISLATIVE COUNSEL'S DIGEST

AB 2428, as amended, Chu. Hate crimes: release conditions.

Under existing law, a court may grant probation upon conviction of an offense, except in specified circumstances, and may impose conditions of continued probation as it may determine are fitting and proper. If a probationer is found to be in violation of a condition of probation, sentence may be imposed, or other conditions of probation, including additional time in jail, may be added. In the case of a person granted probation for specified offenses or sentence enhancing allegations that relate to interference with civil rights, terrorism involving civil rights or symbols of hate, or attacks on religious structures, existing law specifically authorizes certain conditions of probation, including racial or ethnic sensitivity training, as provided.

This bill would additionally authorize these conditions of probation for any offense against the person or property of another individual, private institution, or public agency committed because of the victim's actual or perceived race, color, ethnicity, religion, nationality, country of origin, ancestry, disability, gender, or sexual orientation. This bill would add to those conditions specifically authorized for grants of probation on these charges that the probationer obey a criminal court

protective order protecting the victim, or known next of kin or domestic partner of the victim, from further acts of violence, threats, stalking, or harassment, including any ~~residence exclusion or stay-away conditions.~~

Existing law provides for a period of parole following commitment to state prison for a felony offense.

This bill would authorize the parole authority to require, as to persons released to parole for ~~specified~~ *felony violations of the same* offenses or sentence enhancing allegations ~~that relate to interference with civil rights, terrorism involving civil rights or symbols of hate, or attacks on religious structures specified and described above,~~ that they complete a class or program on ethnic or racial sensitivity, that they obey a criminal protective order or civil restraining order, or both, as specified.

Existing law provides that a person may be committed to a state hospital after being found not guilty of an offense by reason of insanity, and provides a procedure for finding that a person so committed has been restored to sanity. That procedure generally involves a release to outpatient status on the recommendation of the director of the treatment facility to which the patient was committed with the concurrence of the community program director, or release to a forensic conditional release program for one year after a court finds at a hearing regarding restoration of sanity that the person will not be a danger to others, as specified.

This bill would authorize a court or community program director to require a person on outpatient status or conditional release from an insanity commitment for *any violation of the offenses motivated by ethnic, religious, or other specified characteristics of the victim specified and described above* to complete a class or program on ethnic or racial sensitivity, ~~to obey a criminal protective order or civil restraining order, or both.~~ *It would require the court, absent compelling circumstances stated on the record, to make an order protecting the victim or specified related parties from harassing acts and contacts by the person as a condition of outpatient release,* as specified.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 422.95 of the Penal Code is amended to
2 read:



1 422.95. (a) In the case of any person who is granted probation
2 for any offense *against the person or property of another*
3 *individual, private institution, or public agency, committed*
4 *because of the victim's actual or perceived race, color, ethnicity,*
5 *religion, nationality, country of origin, ancestry, disability, gender,*
6 *or sexual orientation, including, but not limited to, offenses*
7 defined in Section 422.6, 422.7, 422.75, 594.3, or 11411, the court
8 may order that the defendant be required to do one or ~~at~~ *more* of
9 the following as a condition of probation:

10 (1) Complete a class or program on racial or ethnic sensitivity,
11 or other similar training in the area of civil rights, or a one-year
12 counseling program intended to reduce the tendency toward
13 violent and anti-social behavior if that class, program, or training
14 is available and was developed or authorized by the court or local
15 agencies in cooperation with organizations serving the affected
16 community.

17 (2) Make payments or other compensation to a
18 community-based program or local agency that provides services
19 to victims of hate violence.

20 (3) Reimburse the victim for reasonable costs of counseling
21 and other reasonable expenses that the court finds are the direct
22 result of the defendant's acts.

23 (4) Obey a criminal court protective order protecting the
24 victim, or known next of kin or domestic partner of the victim,
25 from further acts of violence, threats, stalking, or harassment,
26 including any ~~residence exclusion or stay-away conditions.~~

27 (b) Any payments or other compensation ordered under this
28 section shall be in addition to restitution payments required under
29 Section 1203.04, and shall be made only after that restitution is
30 paid in full.

31 (c) It is the intent of the Legislature to encourage counties,
32 cities, and school districts to establish education and training
33 programs to prevent violations of civil rights and hate crimes.

34 SEC. 2. Section 422.96 is added to the Penal Code, to read:

35 422.96. (a) In the case of any person who is committed to a
36 state hospital or other treatment facility under the provisions of
37 Section 1026 for any offense against the person or property of
38 another individual, private institution, or public agency because of
39 the victim's actual or perceived race, color, *ethnicity*, religion,
40 nationality, country of origin, ancestry, disability, gender or sexual



1 orientation, *including, but not limited to, offenses defined in*
2 *Section 422.6, 422.7, 422.75, 594.3, or 11411, and then is either*
3 *placed on outpatient status or conditional release from the state*
4 *hospital or other treatment facility, the court or community*
5 *program director may order that the defendant be required to do*
6 ~~*one or both of the following as a condition of outpatient status or*~~
7 ~~*conditional release:*~~

8 ~~(1) Complete required as a condition of outpatient status or~~
9 ~~conditional release to complete a class or program on racial or~~
10 ~~ethnic sensitivity, or other similar training in the area of civil~~
11 ~~rights, or a one-year counseling program intended to reduce the~~
12 ~~tendency toward violent and antisocial behavior if that class,~~
13 ~~program, or training is available and was developed or authorized~~
14 ~~by the court or local agencies in cooperation with organizations~~
15 ~~serving the affected community.~~

16 ~~(2) Obey a criminal court protective order or civil restraining~~
17 ~~(b) In the case of any person who is committed to a state~~
18 ~~hospital or other treatment facility under the provisions of Section~~
19 ~~1026 for any offense against the person or property of another~~
20 ~~individual, private institution, or public agency committed~~
21 ~~because of the victim's actual or perceived race, color, ethnicity,~~
22 ~~religion, nationality, country of origin, ancestry, disability, gender~~
23 ~~or sexual orientation, including, but not limited to, offenses~~
24 ~~defined in Section 422.6, 422.7, 422.75, 594.3, or 11411, and then~~
25 ~~is either placed on outpatient status or conditional release from the~~
26 ~~state hospital or other treatment facility, the court, absent~~
27 ~~compelling circumstances stated on the record, shall make an~~
28 ~~order protecting the victim, or known next of kin or domestic~~
29 ~~partner of the victim, from further acts of violence, threats,~~
30 ~~stalking, or harassment, including any residence exclusion or~~
31 ~~stalking, or harassment by the defendant, including any stay-away~~
32 ~~conditions as the court deems appropriate, and shall make~~
33 ~~obedience of that order a condition of the defendant's outpatient~~
34 ~~status or conditional release.~~

35 (c) It is the intent of the Legislature to encourage state agencies
36 and treatment facilities to establish education and training
37 programs to prevent violations of civil rights and hate crimes.

38 SEC. 3. Section 422.97 is added to the Penal Code, to read:

39 422.97. (a) In the case of any person who is released from
40 prison on parole or after serving a term of imprisonment for any



1 felony offense *committed against the person or property of*
2 *another individual, private institution, or public agency because*
3 *of the victim's actual or perceived race, color, ethnicity, religion,*
4 *nationality, country of origin, ancestry, disability, gender, or*
5 *sexual orientation, including, but not limited to, offenses defined*
6 *in Section 422.7, 422.75, 594.3, or 11411, the parole authority may*
7 *order that the defendant be required to do one or both of the*
8 *following as a condition of release:*

9 (a) Complete a class or program on racial or ethnic sensitivity,
10 or other similar training in the area of civil rights, or a one-year
11 counseling program intended to reduce the tendency toward
12 violent and antisocial behavior if that class, program, or training
13 is available and was developed or authorized by the court or local
14 agencies in cooperation with organizations serving the affected
15 community.

16 (b) Obey a criminal court protective order or civil restraining
17 order protecting the victim, or known next of kin or domestic
18 partner of the victim, from further acts of violence, threats,
19 stalking, or harassment, including any ~~residence exclusion or~~
20 stay-away conditions.

