

Introduced by Senator Kuehl

February 12, 2004

An act to amend Section 422.6 of the Penal Code, relating to crimes.

LEGISLATIVE COUNSEL'S DIGEST

SB 1234, as introduced, Kuehl. Crimes: civil rights.

Existing law provides that no person, whether or not acting under color of law, shall by force or threat of force, willfully injure, intimidate, interfere with, oppress, or threaten any other person in the free exercise or enjoyment of any right or privilege secured to him or her by the Constitution or laws of this state or by the Constitution or laws of the United States because of the other person's race, color, religion, ancestry, national origin, disability, gender, or sexual orientation, or because he or she perceives that the other person has one or more of those characteristics. Existing law also provides that no person, whether or not acting under color of law, shall knowingly deface, damage, or destroy the real or personal property of any other person for the purpose of intimidating or interfering with the free exercise or enjoyment of any right or privilege secured to the other person by the Constitution or laws of this state or by the Constitution or laws of the United States, because of the other person's race, color, religion, ancestry, national origin, disability, gender, or sexual orientation, or because he or she perceives that the other person has one or more of those characteristics.

This bill would make a technical, nonsubstantive change to these provisions.

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

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

1 SECTION 1. Section 422.6 of the Penal Code is amended to
2 read:

3 422.6. (a) No person, whether or not acting under color of
4 law, shall by force or threat of force, willfully injure, intimidate,
5 interfere with, oppress, or threaten any other person in the free
6 exercise or enjoyment of any right or privilege secured to him or
7 her by the Constitution or laws of this state or by the Constitution
8 or laws of the United States because of the other person’s race,
9 color, religion, ancestry, national origin, disability, gender, or
10 sexual orientation, or because he or she perceives that the other
11 person has one or more of those characteristics.

12 (b) No person, whether or not acting under color of law, shall
13 knowingly deface, damage, or destroy the real or personal
14 property of any other person for the purpose of intimidating or
15 interfering with the free exercise or enjoyment of any right or
16 privilege secured to the other person by the Constitution or laws
17 of this state or by the Constitution or laws of the United States,
18 because of the other person’s race, color, religion, ancestry,
19 national origin, disability, gender, or sexual orientation, or because
20 he or she perceives that the other person has one or more of those
21 characteristics.

22 (c) Any person convicted of violating subdivision (a) or (b)
23 shall be punished by imprisonment in a county jail not to exceed
24 one year, or by a fine not to exceed five thousand dollars (\$5,000),
25 or by both ~~that~~ *the above* imprisonment and fine, and the court
26 shall order the defendant to perform a minimum of community
27 service, not to exceed 400 hours, to be performed over a period not
28 to exceed 350 days, during a time other than his or her hours of
29 employment or school attendance. However, no person shall be
30 convicted of violating subdivision (a) based upon speech alone,
31 except upon a showing that the speech itself threatened violence
32 against a specific person or group of persons and that the defendant
33 had the apparent ability to carry out the threat.

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