

AMENDED IN SENATE JUNE 21, 2006

AMENDED IN SENATE MAY 2, 2006

AMENDED IN ASSEMBLY JANUARY 18, 2006

AMENDED IN ASSEMBLY JANUARY 4, 2006

CALIFORNIA LEGISLATURE—2005—06 REGULAR SESSION

**ASSEMBLY BILL**

**No. 1160**

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**Introduced by Assembly Member Lieber  
(Coauthors: Assembly Members Jones, Koretz, and Torrico)**

February 22, 2005

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An act to add Section 1127h to the Penal Code, relating to crime, and making an appropriation therefor.

LEGISLATIVE COUNSEL'S DIGEST

AB 1160, as amended, Lieber. Crime.

Existing law, Judicial Council of California Criminal Jury Instruction No. 200, provides that it is the duty of the trier of fact not to let "bias, sympathy, prejudice, or public opinion" influence its decision.

This bill, *the Gwen Araujo Justice for Victims Act*, would state legislative findings and declarations regarding the influence of a defendant's bias against the victim upon the trier of fact in a criminal proceeding and defendants' use of panic strategies based upon discovery or knowledge of an actual or perceived characteristic of their victim to decrease criminal culpability for crime.

This bill would also provide that a party may request that the jury receive an instruction that defines bias as inclusive of bias against the victim or victims based upon disability, gender, nationality, race or

ethnicity, religion, gender identity, or sexual orientation, in any criminal trial.

*This bill would also appropriate \$125,000 to the office of the Attorney General to be used to contract with an outside vendor to develop materials for use by city and county prosecutors explaining how panic strategies are used to encourage jurors to respond to societal bias and providing best practices for preventing bias from affecting the outcome of a trial.*

Vote: ~~majority~~<sup>2/3</sup>. Appropriation: ~~no~~ yes. Fiscal committee: ~~no~~ yes. State-mandated local program: no.

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

1 SECTION 1. This act shall be known and may be cited as the  
2 Gwen Araujo Justice for Victims Act.

3 SECTION 1.

4 SEC. 2. The Legislature hereby finds and declares all of the  
5 following:

6 (a) California law defines a hate crime as a criminal act  
7 committed, in whole or in part, because of the actual or perceived  
8 disability, gender, nationality, race or ethnicity, religion, or  
9 sexual orientation of the victim, or his or her association with a  
10 person or group with one or more of these actual or perceived  
11 characteristics.

12 (b) It is the right of every person regardless of actual or  
13 perceived disability, gender, nationality, race or ethnicity,  
14 religion, or sexual orientation, or association with a person or  
15 group with these actual or perceived characteristics, to be secure  
16 and protected from fear, intimidation, and physical harm caused  
17 by the actions of violent groups and individuals.

18 (c) "Bias" includes bias based upon the victim's actual or  
19 perceived disability, gender, nationality, race or ethnicity,  
20 religion, or sexual orientation, or the victim's association with a  
21 person or group with one or more of these characteristics.

22 (d) It is against public policy for juries to render decisions  
23 tainted by bias based upon the victim's actual or perceived  
24 disability, gender, nationality, race or ethnicity, religion, or  
25 sexual orientation, or his or her association with a person or  
26 group with one or more of these characteristics.

1 (e) “Panic strategies” are those strategies that try to explain a  
2 defendant’s actions or emotional reactions based upon the  
3 knowledge or discovery of the fact that the victim possesses one  
4 or more of the characteristics listed above or associates with a  
5 person or group with one or more of the those characteristics.

6 (f) The Legislature is concerned about the use of societal bias  
7 in criminal proceedings and the susceptibility of juries to such  
8 bias. The use of so-called “panic strategies” by defendants in  
9 criminal trials opens the door for bias against victims based on  
10 one or more of the characteristics listed above or an association  
11 with a person or group with one or more of those characteristics.

12 (g) It is against public policy for a defendant to be acquitted of  
13 a charged offense or convicted of a lesser included offense based  
14 upon an appeal to the societal bias that may be possessed by  
15 members of a jury.

16 ~~SEC. 2.~~

17 SEC. 3. Section 1127h is added to the Penal Code, to read:

18 1127h. In any criminal trial or proceeding, upon the request  
19 of a party, the court shall instruct the jury as follows:

20 “Do not let bias, sympathy, prejudice, or public opinion  
21 influence your decision. Bias includes bias against the victim or  
22 victims based upon his or her disability, gender, nationality, race  
23 or ethnicity, religion, gender identity, or sexual orientation.”

24 SEC. 4. *The sum of one hundred twenty-five thousand dollars*  
25 *(\$125,000) is hereby appropriated from the General Fund to the*  
26 *office of the Attorney General to be maintained in a special fund.*  
27 *These moneys shall be used to contract with an outside vendor to*  
28 *develop materials for use by county prosecutors explaining how*  
29 *panic strategies are used to encourage jurors to respond to*  
30 *societal bias and providing best practices for preventing bias*  
31 *from affecting the outcome of a trial.*

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34 **CORRECTIONS:**

35 **Digest - Page 2.**

36 **Digest - Vote Key.**

37 **Text - Page 3.**

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