

AMENDED IN SENATE AUGUST 7, 2006

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

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

February 22, 2005

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 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: 2/3. Appropriation: yes. Fiscal committee: 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 SEC. 2. The Legislature hereby finds and declares all of the
- 4 following:
- 5 (a) California law defines a hate crime as a criminal act
- 6 committed, in whole or in part, because of the actual or perceived
- 7 disability, gender, nationality, race or ethnicity, religion, or
- 8 sexual orientation of the victim, or his or her association with a
- 9 person or group with one or more of these actual or perceived
- 10 characteristics.
- 11 (b) It is the right of every person regardless of actual or
- 12 perceived disability, gender, nationality, race or ethnicity,
- 13 religion, or sexual orientation, or association with a person or
- 14 group with these actual or perceived characteristics, to be secure
- 15 and protected from fear, intimidation, and physical harm caused
- 16 by the actions of violent groups and individuals.
- 17 (c) "Bias" includes bias based upon the victim's actual or
- 18 perceived disability, gender, nationality, race or ethnicity,
- 19 religion, or sexual orientation, or the victim's association with a
- 20 person or group with one or more of these characteristics.
- 21 (d) It is against public policy for juries to render decisions
- 22 tainted by bias based upon the victim's actual or perceived
- 23 disability, gender, nationality, race or ethnicity, religion, or

1 sexual orientation, or his or her association with a person or
2 group with one or more of these characteristics.

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

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

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

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

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

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

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