

AMENDED IN SENATE AUGUST 28, 2006
AMENDED IN SENATE AUGUST 22, 2006
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.~~ *crime.*

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 Emergency Services to be used to fund the development of, in consultation with, knowledgeable community organizations and county officials, materials and trainings for use by~~ *require the Office of Emergency Services, to the extent funding becomes available for that purpose, to develop practice manuals, as specified, for District Attorneys’ offices 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: $\frac{2}{3}$ -majority. Appropriation: ~~yes-no~~. 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,

1 religion, or sexual orientation, or the victim’s association with a
2 person or group with one or more of these characteristics.

3 (d) It is against public policy for juries to render decisions
4 tainted by bias based upon the victim’s actual or perceived
5 disability, gender, nationality, race or ethnicity, religion, or
6 sexual orientation, or his or her association with a person or
7 group with one or more of these characteristics.

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

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

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

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

24 1127h. In any criminal trial or proceeding, upon the request
25 of a party, the court shall instruct the jury substantially as
26 follows:

27 “Do not let bias, sympathy, prejudice, or public opinion
28 influence your decision. Bias includes bias against the victim or
29 victims, witnesses, or defendant based upon his or her disability,
30 gender, nationality, race or ethnicity, religion, gender identity, or
31 sexual orientation.”

32 ~~SEC. 4. The sum of one hundred twenty-five thousand dollars~~
33 ~~(\$125,000) is hereby appropriated from the General Fund to the~~
34 ~~Office of Emergency Services. The executive director of the~~
35 ~~Office of Emergency Services is authorized to allocate and award~~
36 ~~these funds to public agencies or private nonprofit organizations~~
37 ~~for the purpose of establishing statewide programs of education,~~
38 ~~training, and practice materials for District Attorneys’ offices.~~
39 ~~The training materials will explain how panic strategies are used~~
40 ~~to encourage jurors to respond to societal bias against people~~

1 based on actual or perceived disability, gender (including gender
2 identity), nationality, race or ethnicity, religion, or sexual
3 orientation, and provide best practices for preventing bias from
4 affecting the outcome of a trial. Agencies or organizations that
5 are awarded the funds shall consult with community
6 organizations and county officials that are knowledgeable about
7 the use of bias-related strategies in criminal trials.

8 *SEC. 4. The Office of Emergency Services shall, to the extent*
9 *funding becomes available for that purpose, develop practice*
10 *materials for district attorneys' offices in the state. The*
11 *materials, which shall be developed in consultation with*
12 *knowledgeable community organizations and county officials,*
13 *shall explain how panic strategies are used to encourage jurors*
14 *to respond to societal bias against people based on actual or*
15 *perceived disability, gender, including gender identity,*
16 *nationality, race or ethnicity, religion, or sexual orientation and*
17 *provide best practices for preventing bias from affecting the*
18 *outcome of a trial.*