

ASSEMBLY BILL

No. 860

Introduced by Assembly Member Daly

February 26, 2015

An act to amend Section 422.55 of the Penal Code, relating to hate crimes.

LEGISLATIVE COUNSEL'S DIGEST

AB 860, as introduced, Daly. Hate crimes: political affiliation.

Existing law defines “hate crime” as a criminal act committed, in whole or in part, because of actual or perceived characteristics of the victim, including, among other things, race, religion, disability, and sexual orientation. Under existing law, that definition applies unless an explicit provision of law or the context clearly requires a different meaning. Existing law provides punishments for hate crimes that range from misdemeanors with specified penalties to felonies with additional terms of one to 3 years in state prison, depending on the underlying criminal act and other circumstances. Existing law requires, with conditions, the Attorney General to direct local law enforcement agencies to report specified information relative to hate crimes to the Department of Justice. Existing law requires the department to annually submit a report to the Legislature that analyzes the results of information obtained from local law enforcement pursuant to these provisions. Local law enforcement entities are required by existing law to provide a brochure on hate crimes to victims of these crimes and to the public, and the Department of Fair Employment and Housing is required by existing law to revise those brochures as needed and to provide those brochures to local law enforcement agencies upon request.

This bill would add political affiliation to the list of actual or perceived characteristics necessary to determine whether a criminal act qualifies as a hate crime. By expanding the scope of an existing crime, this bill would impose a state-mandated local program. By expanding the information that local law enforcement agencies are required to report to the Department of Justice, this bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that with regard to certain mandates no reimbursement is required by this act for a specified reason.

With regard to any other mandates, this bill would provide that, if the Commission on State Mandates determines that the bill contains costs so mandated by the state, reimbursement for those costs shall be made pursuant to the statutory provisions noted above.

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

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

- 1 SECTION 1. Section 422.55 of the Penal Code is amended to
- 2 read:
- 3 422.55. For purposes of this title, and for purposes of all other
- 4 state law unless an explicit provision of law or the context clearly
- 5 requires a different meaning, the following shall apply:
- 6 (a) "Hate crime" means a criminal act committed, in whole or
- 7 in part, because of one or more of the following actual or perceived
- 8 characteristics of the victim:
- 9 (1) Disability.
- 10 (2) Gender.
- 11 (3) Nationality.
- 12 (4) *Political affiliation.*
- 13 ~~(4)~~
- 14 (5) Race or ethnicity.
- 15 ~~(5)~~
- 16 (6) Religion.
- 17 ~~(6)~~
- 18 (7) Sexual orientation.
- 19 ~~(7)~~

1 (8) Association with a person or group with one or more of these
2 actual or perceived characteristics.

3 (b) “Hate crime” includes, but is not limited to, a violation of
4 Section 422.6.

5 SEC. 2. No reimbursement is required by this act pursuant to
6 Section 6 of Article XIII B of the California Constitution for certain
7 costs that may be incurred by a local agency or school district
8 because, in that regard, this act creates a new crime or infraction,
9 eliminates a crime or infraction, or changes the penalty for a crime
10 or infraction, within the meaning of Section 17556 of the
11 Government Code, or changes the definition of a crime within the
12 meaning of Section 6 of Article XIII B of the California
13 Constitution.

14 However, if the Commission on State Mandates determines that
15 this act contains other costs mandated by the state, reimbursement
16 to local agencies and school districts for those costs shall be made
17 pursuant to Part 7 (commencing with Section 17500) of Division
18 4 of Title 2 of the Government Code.