

SENATE JUDICIARY COMMITTEE
Senator Thomas Umberg, Chair
2021-2022 Regular Session

AB 1126 (Bloom)
Version: June 23, 2021
Hearing Date: July 6, 2021
Fiscal: Yes
Urgency: No
AWM

SUBJECT

Commission on the State of Hate

DIGEST

This bill establishes the Commission on the State of Hate within the state government.

EXECUTIVE SUMMARY

Incidents of hate crimes have increased dramatically over the past few years in the United States and in California. This Committee has already passed a resolution condemning the rise in anti-Asian American and Pacific Islander hate crimes as a racist response to the COVID-19 virus (SR 12 (Min, 2021)); hate crimes against other groups have similarly spiked or remained near historically high rates. This bill establishes within the state government the Commission on the State of Hate (Commission), which would provide resources to various state agencies and the public to inform them on the state of hate, and advise the Legislature, the Governor, and state agencies on policy recommendations to promote intersocial education designed to foster mutual respect and understanding among California's diverse population. The Commission would carry out its mission by, among other things, working with local community and academic organizations, holding meetings across the state, and filing an annual report of its efforts with the Legislature and the Governor. The bill includes a five-year sunset provision.

This bill is sponsored by the author and supported by a wide range of human rights groups, religious coalitions, and local entities. There is no known opposition. This bill passed out of the Senate Governmental Organizations Committee with a 10-4 vote.

PROPOSED CHANGES TO THE LAW

Existing law:

- 1) Recognizes that all people are by nature free and independent and have inalienable rights, including enjoying and defending life and liberty; acquiring, possessing, and protecting property; and pursuing and obtaining safety, happiness, and privacy. (Cal. Const., art. I, § 1)
- 2) Defines a “hate crime” as a criminal act committed, in whole or in part, because of one or more of the following actual or perceived characteristics of the victim: disability, gender, nationality, race, ethnicity, religion, sexual orientation, or association with a person or group with one or more of these actual or perceived characteristics. (Pen. Code, § 422.55.)
- 3) Makes it a crime to, whether or not acting under color of law:
 - a) 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 them by the Constitution or laws of this state or by the Constitution or laws of the United States in whole or in part because of one or more of the actual or perceived characteristics listed above.
 - b) 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, in whole or in part because of one or more of the actual or perceived characteristics of the victim listed above. (Pen. Code, § 422.6.)
- 4) Imposes additional punishment for other crimes committed as hate crimes. (Pen. Code, §§ 422.7-422.77.)
- 5) Requires the Attorney General to direct local law enforcement agencies to report to the Department of Justice information requested by the Attorney General related to hate crimes. The Department of Justice shall annually update its OpenJustice Web portal with the hate crime information obtained. (Pen. Code, § 13023.)
- 6) Establishes various commissions within the state government, including:
 - a) The Commission on the Status of Women and Girls, which studies policy areas relating to gender equity and acts as an information center on issues that affect the lives of women and girls. (Gov. Code, tit. 2, div. 1, ch. 3.1, §§ 8240 et seq.)
 - b) The Commission on Asian and Pacific Islander American Affairs, which advises the Governor, the Legislature, and state agencies, departments, and commissions on issues relating to the social and economic development, and

- the rights and interests of Asian and Pacific Islander American communities and on how to respond most effectively to the views, needs, and concerns of those communities. (Gov. Code, tit. 2, div. 1, ch. 3.3, §§ 8255 et seq.)
- c) The Healthy California for All Commission, an independent body to develop a plan for California's health care system that includes options for providing coverage and access through a unified financing system. (Health & Saf. Code, div. 1, pt. 4, §§ 1000 et seq.)
 - d) The California Commission on Aging, which serves as the principal advocate body in the state on behalf of older individuals, including, but not limited to, advisory participation in the consideration of all legislation and regulations made by state and federal departments and agencies relating to programs and services that affect older individuals. (Welf. & Inst. Code, div. 8.5, ch. 3, §§ 9200 et seq.)

This bill:

- 1) Establishes the Commission on the State of Hate (Commission).
- 2) Provides that the Commission shall be composed of 11 members, as follows:
 - a) Five members shall be appointed by the Governor; three members shall be appointed by the Speaker of the Assembly; and three members shall be appointed by the Senate Rules Committee.
 - b) Appointments shall be considered among individuals who possess professional experience, expertise, or specialized knowledge in combating hate, intolerance, and discrimination on the basis of sex, color, race, religion, ancestry, national origin, disability, medical condition, marital status, sexual orientation, citizenship, primary language, immigration status, or genetic information, including and especially persons who serve in human relations and community service positions, social scientists, researchers, data scientists, or other related civilian capacities.
 - c) The members shall serve at the pleasure of the appointing power and for a set term.
 - d) Members of the Legislature, the Attorney General, and the Director of the Office of Emergency Services shall serve on the Commission as ex officio members.
- 3) Provides that the Commission has the following goals:
 - a) Provide resources and assistance to the Department of Justice, the office of the Attorney General, the Office of Emergency Services, federal, state, and local law enforcement agencies, and the public on the state of hate in order to keep these entities and the public informed of emerging trends in hate-related crime.
 - b) Engage in fact finding, data collection, and the production of annual reports on the state of hate and hate-related crimes.

- c) Collaborate with other subject-matter experts in the fields of hate, public safety, and other related fields to gain a deeper understanding to monitor and assess trends relative to the state of hate or hate-related crime.
 - d) Advise the Legislature, the Governor, and state agencies on policy recommendations to promote intersocial education designed to foster mutual respect and understanding among California's diverse population, suggest and prescribe recommended training for state officials and staff to recognize and address dangerous acts of hate and intolerance, and advise on related matters.
- 4) Requires the Commission to host and coordinate four in-person or virtual community forums on the state of hate per year. The forums shall be open to the public, and shall focus on local, state, and national evolving trends relative to the state of hate or hate-related crime and include presentations from subject-matter experts.
- 5) Requires the Commission to issue an annual State of Hate Commission Report to the Governor and the Legislature by July 1 of each year, starting July 1, 2023, that describes the Commission's activities in the previous year and its recommendations for the following year. The Report shall also:
 - a) Provide a comprehensive accounting of hate crime activity statewide and report on relevant national hate crime trends and statistics.
 - b) Make recommendations to improve the practices, resources, and relevant trainings available to and used by law enforcement statewide to respond to and reduce instances of hate crimes.
 - c) Make recommendations for actions to be taken by the Governor and the Legislature, including, but not limited to, policy solutions and legislation that will help the state respond to and reduce instances of hate.
 - d) Identify existing tools, practices, resources, and trainings that have proven successful in other states and countries that may be implemented by state law enforcement, the Governor, the Legislature, relevant state departments and agencies, and communities throughout the state in order to respond to and reduce instances of hate crimes.
 - e) Not disclose personal information that may reveal the identity of an individual.
 - f) Be submitted to the Legislature annually through the Joint Committee on Rules starting on July 1, 2023, notwithstanding Government Code section 10231.5, and be submitted in compliance with Government Code section 9795.
- 6) Defines "hate crime" to have the same meaning as the definition in Penal Code section 422.55, set forth in 2) of the "Existing Law" section.
- 7) Provides that the above provisions will remain in effect only until January 1, 2027, and as of that date be repealed.

COMMENTS

1. Author's comment

According to the author:

No one should be living in fear for their safety or their lives because of their race, religion, gender, sexual orientation, or disability. Yet this is the reality for far too many individuals and communities in our state and throughout the country.

Hate crimes are increasing at an alarming rate. According to the Center for the Study of Hate and Extremism's 2020 Report to the Nation, hate crime totals for 2019 hit their highest level in over a decade, with 7,314 hate crime "incidents" reported. In 2020, anti-Asian hate crimes alone surged by 149 percent. Tragically, these hate crimes are becoming more violent and more deadly with recorded increases in hate related homicides and violent assaults. This is unacceptable and we must take swift action to put a stop to it.

AB 1126 establishes the Commission on the State of Hate. The bill creates a permanent commission within state government, whose sole mission is to: monitor and assess current trends relative to hate crimes; produce annual reports on these trends; and make policy recommendations to the Legislature, Governor, and relevant state agencies and departments in order to help the state be aware of, address, and hopefully reduce instances of these crimes.

2. Hate crimes have been on the rise

In the last few years, there has been a disturbing rise of hate crimes, especially violent hate crimes, in this state and in this country. According to the Federal Bureau of Investigations, hate crimes reported by local law enforcement across the United States reached a 10-year high in 2019,¹ nearly 14 percent of which occurred in California.² While national and statewide statistics are not yet available for 2020 and 2021, data suggest that hate crimes have continued to increase. 2020 and 2021, with marked increases in hate crimes against Asian American and Pacific Islanders (AAPIs)³ and

¹ See Levin, et al., *2020 Report to the Nation: Illustrated Almanac*, Center for the Study of Hate & Extremism, California State University, San Bernardino (2020), at p. 1.

² FBI Criminal Justice Information Services Division, *2019 Hate Crime Statistics*, Table 12, Agency Hate Crime reporting by State and Federal, 2019, <https://ucr.fbi.gov/hate-crime/2019/tables/table-12.xls> [last visited Jul. 2, 2021].

³ Jeung, at al., *Stop AAPI Hate National Report, 3/19/20-2/28/21*, available at <https://stopaapihate.org/2020-2021-national-report/> [last visited Jul. 2, 2021]; Center for the Study of Hate & Extremism, California State University, San Bernardino, *FACT SHEET: Anti-Asian Prejudice March 2021* (Mar. 2021), available at <https://www.csusb.edu/sites/default/files/FACT%20SHEET-%20Anti-Asian%20Hate%202020%203.2.21.pdf> [las visited Jul. 2, 2021].

Black and Latinx transgender women,⁴ and hate crimes against other groups at or near historic highs.⁵ The real numbers are likely much higher, because hate crimes are generally underreported.⁶

The state's Attorney General is already required, subject to the availability of adequate funding, to direct local law enforcement agencies to report hate crime data to the Department of Justice, which must be compiled and made public.⁷ This bill establishes the Commission on the State of Hate to fill the gaps in current hate crime reporting by working with community and academic partners to improve hate crime and hate incident reporting to help the commission identify trends in California. The Commission would specifically engage with community organizations and programs to try and reduce the problem of underreporting and build community and academic partnerships with groups like Stop AAPI Hate. The Commission would also hold at least four meetings annually and submit a report on its efforts to the Legislature and the Governor.

3. Arguments in support

According to bill supporter Anti-Defamation League:

ADL recorded 2,024 criminal and non-criminal anti-Semitic incidents in the U.S. in 2020, the third-highest total since our first Audit of Anti-Semitic Incidents in 1979. California accounted for 289 of those incidents, the third-highest in the country. And in May [2021] anti-Semitic incidents nationwide more than doubled over the same period in 2020 as a result of the conflict between Israel and Hamas—including a widely publicized assault against Jewish diners in Los Angeles. We note these dark statistics alongside the spike in Asian American and Pacific Islander hate due to COVID scapegoating, the open wound of racism against the African-American community, and persistent conspiracy theories around immigration and the Latino community.

Data drives policy, but the data detailed above represents only a snapshot of the problem that hate and hate violence pose. Hate crimes are notoriously underreported for numerous reasons, including a distrust of law enforcement, and we also need more direct input from community members to

⁴ Human Rights Watch, *Fatal Violence Against the Transgender and Gender Non-Conforming Community in 2021* (2021), <https://www.hrc.org/resources/fatal-violence-against-the-transgender-and-gender-non-conforming-community-in-2021> [last visited Jul. 2, 2021].

⁵ See, e.g., Anti-Defamation League, Center on Extremism, *Audit of Antisemitic Incidents* (Apr. 2021), atp. 6, available at <https://www.adl.org/audit2020> [last visited Jul. 2, 2021]; Ward, *Hate crimes against Black people on the rise*, Crosstown (June 11, 2021), <https://xtown.la/2021/06/11/anti-black-hate-crimes/> [last visited Jul. 2, 2021].

⁶ E.g., Pezzella, Fetzer, & Keller, *The Dark Figure of Hate Crime Underreporting*, American Behavioral Scientist (Jan. 28, 2019).

⁷ Pen. Code, § 13023.

decisionmakers about their real-life experiences with hate in its many forms. The California Commission on the State of Hate is needed to fully understand the current trends in hate and violence so we can develop policy solutions to address and reduce their continuing prevalence.

SUPPORT

AMAAD

American Jewish Committee Los Angeles

Anti-Defamation League

Armenian National Committee of America – Western Region

California Asian Pacific American Bar Association

California Association of Community Managers

California State University, San Bernardino, Center for the Study of Hate & Extremism

City of Compton

City of West Hollywood

Courage California

Equality California

Hadassah Southern California

Islamic Networks Group

Iranian American Jewish Federation

Israeli-American Civic Action Network

Jewish Public Affairs Committee of California

Jews United for Democracy & Justice

Muslim Public Affairs Council Foundation

National Association of Social Workers, California Chapter

Network Contagion Research Institute

OC Human Relations

Simon Wiesenthal Center

The Arc and United Cerebral Palsy California Collaboration

The Sikh Coalition

Unique Women’s Coalition

OPPOSITION

None known

RELATED LEGISLATION

Pending Legislation:

SB 764 (Umberg, 2021) requires the Attorney general to review any hate crimes and domestic terrorism training programs and resource programs that are provided to state, local, and tribal law enforcement agencies and ensure that those training and resource

programs assist in understanding, detecting, deterring, and investigating hate crimes and acts of domestic terrorism. SB 764 is pending before the Senate Public Safety Committee.

AB 1339 (Nguyen, 2021) requires the Board of State and Community Corrections to establish a hate crimes task force and authorize local law enforcement agencies to participate in the task force through regional task forces, as specified. AB 1339 was held on the Assembly Appropriations Committee suspense file.

AB 557 (Muratsuchi, 2021) requires the Attorney General to establish, maintain, and publicize toll-free public hotline telephone number for the reporting of hate crimes, and for the dissemination of information about the characteristics of hate crimes, protected classes, civil remedies, and reporting options, as specified. AB 557 is pending before the Senate Public Safety Committee.

AB 412 (Reyes, 2021) establishes the California Commission on Human rights to advise on the protection of human rights within the state. AB 412 is pending before the Senate Judiciary Committee and is being heard on the same day as this bill.

Prior Legislation:

SB 1165 (Jones, 2020) would have required the Department of Justice, when collecting data on hate crimes, to collect the zip codes in which hate crimes take place and to create and distribute outreach materials about hate crimes to assist local law enforcement agencies in their efforts to engage the communities they serve. SB 1165 died in the Senate Public Safety Committee.

AB 2235 (Gabriel, 2020) would have required the Department of Justice to conduct reviews of all law enforcement agencies every three years to evaluate the accuracy of hate crime data provided and agencies' hate crime policies, implement a school-based program in conjunction with school districts and local law enforcement agencies aimed at educating students regarding how to report all suspected hate crimes to prevent future hate crimes, and submit specified hate crime reports to the Federal Bureau of Investigation for inclusion in the national crime repository for crime data. AB 301 died in the Assembly Public Safety Committee.

AB 301 (Chu, 2019) would have required the Department of Justice to conduct reviews of all law enforcement agencies every three years to evaluate the accuracy of hate crime data provided and agencies' hate crime policies, implement a school-based program in conjunction with school districts and local law enforcement agencies aimed at educating students regarding how to report all suspected hate crimes to prevent future hate crimes, and submit specified hate crime reports to the Federal Bureau of Investigation for inclusion in the national crime repository for crime data. AB 301 died in the Assembly Appropriations Committee.

AB 800 (Chiu, 2017) would have required the Attorney General to establish, maintain, and publicize toll-free public hotline telephone number for the reporting of hate crimes, and for the dissemination of information about the characteristics of hate crimes, protected classes, civil remedies, and reporting options, as specified. AB 800 died in the Assembly Appropriations Committee.

PRIOR VOTES:

Senate Governmental Organizations Committee (Ayes 10, Noes 4)

Assembly Floor (Ayes 68, Noes 0)

Assembly Appropriations Committee (Ayes 15, Noes 0)

Assembly Accountability and Administrative Review Committee (Ayes 7, Noes 0)
