

SENATE JUDICIARY COMMITTEE
Senator Thomas Umberg, Chair
2023-2024 Regular Session

AB 1079 (Jackson)
Version: June 26, 2023
Hearing Date: July 6, 2023
Fiscal: Yes
Urgency: No
ID

SUBJECT

Discrimination: Public engagement

DIGEST

This bill establishes the Hate Crimes Intervention Program within a division of the California Public Health Department (Department) in order to implement evidence-based community interventions to hate crime, and requires the Department to create statewide and regional campaigns on radio, media, social media, and television combating hate crimes.

EXECUTIVE SUMMARY

Hate crime is a major issue for many California communities. While the state has taken steps to address the issue, no program has yet addressed the issue through the lens of public health and media campaigns to prevent hate crime. Recognizing that hate crime poses a serious public health issue, this bill creates a Hate Crimes Intervention Program within the California Public Health Department (Department) to implement evidence-based community interventions to hate crime, and creates a media campaign under the Department for focusing on and preventing hate crimes. The media campaigns will be implemented by a working group comprised of a member of each house of the Legislature and nine experts in the field, and will focus on hate crime directed towards specific communities based on the rate of hate crimes committed against each community, as determined by California Department of Justice data or other reliable data.

AB 1079 is sponsored by the Anti-Defamation League, and is supported by the California Faculty Association, the National Association of Social Workers – California Chapter. This bill passed out of the Senate Health Committee on a vote of 10 to 0.

PROPOSED CHANGES TO THE LAW

Existing law:

- 1) Establishes the Department of Public Health (DPH), and vests it with duties, powers, purposes, functions, responsibilities, and jurisdiction as they relate to public health and licensing of health facilities, as specified. Gives the Director of DPH broad authority to detect, monitor, and prevent the spread of communicable disease in the state. (Health & Saf. Code §§ 131050 and 120130 et seq.)
- 2) Establishes the Commission on the State of Hate under the Civil Rights Department (CRD) to provide resources and assistance to the Department of Justice, the state Attorney General, the Office of Emergency Services, and federal, state, and local law enforcement agencies relating to hate-related crimes. Authorizes the Commission, in collaboration with other subject-matter experts, to engage in fact finding, data collection, and the publication of annual reports on the state of hate-related crimes. Requires the Commission to advise the Legislature, the Governor, and state agencies on policy recommendations and to undertake educational efforts to foster mutual respect and understanding among California's diverse population, and to hold at least four public forums on hate crimes. (Gov. Code § 8010.)
- 3) Requires local law enforcement agencies to report hate crimes to the California Department of Justice. (Pen. Code § 13023.)
- 4) 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 or 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.)
- 5) Mandates that the Department of Justice (DOJ) submit an annual Hate Crime in California report to the Legislature and on the DOJ website. (Pen. Code § 13023.)

This bill:

- 1) Requires DPH, no later than July 1, 2025 or one year after the date of appropriation, to establish a Hate Crimes Intervention Program under the Injury and Violence Prevention Branch of DPH. The program will be responsible for implementing evidence-based community interventions in conjunction with community leaders and organizations in communities where a hate crime has been confirmed by the Department of Justice (DOJ).
- 2) Requires the CRD, no later than July 1, 2025 or one year after appropriation by the Legislature, to create and distribute statewide and regional radio, social media, and

television campaigns for the purposes of discouraging discrimination based upon, but not limited to, disability, gender, nationality, race or ethnicity, religion, or sexual orientation.

- 3) Specifies that the campaigns will be implemented through a working group and shall have eleven members, two of whom are from each house of the Legislature, and nine of whom shall be appointed by the director of DPH with expertise in the field of marketing and messaging, specifically on topics germane to the program.
- 4) Provides that the percentage of ads focused on combating hate violence against a specific community with common characteristics shall be created and distributed based on the rate of hate crimes committed against each protected group, as determined by the most recent Hate Crime in California report released by the Attorney General or by other reliable data.

COMMENTS

1. Author's Statement

According to the author:

Hate Violence against marginalized people and groups has reached horrifying, historic highs. The same can be said for the proliferation of white supremacist propaganda, and the growth of hate-driven, white supremacist groups, and organizations. Cleaning up in the aftermath of hate crimes is not enough. California must go on the offensive against hate and bigotry, and chart the course to become America's first genuinely Antiracist State.

2. Hate crime has been on the rise

Hate crime is a major problem for California, and the state has seen significant increases in hate crimes in recent years. Hate crime is a crime that is committed by a perpetrator entirely or partly because of the victim's actual or perceived personal characteristics like disability, gender, nationality, race or ethnicity, religion, sexual orientation, or association with a person or group with one or more of such characteristics. (Cal. Pen. Code § 422.55.) In recent years, there have been numerous reports of sharp increases in such crimes against racial and ethnic minorities, against transgender individuals and other members of the LGBTQ community, and against members of the Islamic and Jewish faiths. The COVID-19 pandemic fueled a dramatic surge in racially-motivated attacks on Asian-Americans, with some reports suggesting hate crime toward Asian

Americans increased 339 percent between 2020 and 2021.¹ Hate crimes and murders of transgender individuals have also increased considerably in recent years.² Such increases have corresponded with increases in white supremacist extremist groups and events.³

A 2021 report by Attorney General Rob Bonta provides even more insight into this dire reality. The report found a nearly 90 percent increase in hate crimes in California over the last ten years, and an increase of 32.6 percent from 2020 to 2021 at 1,763 total recorded incidents.⁴ The report found that the sharpest increases were for anti-Asian bias, which saw a 177.5 percent increase, and anti-LGBTQ bias, which saw a 47.8 percent increase. Anti-Latino bias hate crime incidents increased by 29.6 percent. The most prevalent hate crime incidents in total were against African-Americans, at 513. Of the criminal offenses committed during such hate crimes, the report found that 72.2 percent were violent crimes, while the remaining offenses were property crimes like vandalism and arson.

While the findings of this report are significant, they likely do not capture the entire story. That is because the Attorney General's report is based on data from law enforcement agencies related to crimes actually investigated by law enforcement. Many crimes and hateful, criminal acts likely occurred that were not reported to police.

Hate crime has serious consequences. It often involves violence or the threat of violence, resulting in injury, physical harm, and sometimes death of those targeted for their identity. Those targeted suffer directly from such physical harm, and often will suffer emotional and psychological harm from the trauma that the attack caused. Even when someone has not been subject to a hate crime directly themselves, the presence and specter of hate crimes can harm all members of the targeted community. For example, in the sharp rise in hate crimes directed toward Asian-Americans during COVID-19, many Asian-Americans and their communities began to change their daily routines to try to avoid any possible racially-based harassment or harm.⁵ LGBTQ Californians often avoid being out in public, or showing public displays of affection toward their same-sex

¹ Kimmy Yam, "Anti-Asian hate crimes increased 339 percent nationwide last year, report says," NBC News (Jan. 31, 2022 3:02 pm), available at <https://www.nbcnews.com/news/asia/anti-asian-hate-crimes-increased-339-percent-nationwide-last-year-repo-rcna14282>.

² Human Rights Campaign, *An Epidemic of Violence 2021* (2022), available at https://reports.hrc.org/epidemic-of-violence-fatal-violence-against-transgender-and-gender-non-confirming-people-in-the-united-states-in-2021?_ga=2.108286530.1970043238.1687242940-1404589019.1687242940.

³ Center on Extremism, "White Supremacist Propaganda Soars to All-Time High in 2022," Anti-Defamation League (Mar. 8, 2023), available at <https://www.adl.org/resources/report/white-supremacist-propaganda-soars-all-time-high-2022>.

⁴ California Attorney General, *2021: Hate Crime in California*, Cal. Dept. of Justice (Jun. 28, 2022)

⁵ Khadijah Edwards, "About a third of Asian Americans say they have changed their daily routine due to concerns over threats, attacks," Pew Research Center (May 9, 2022), available at <https://www.pewresearch.org/short-reads/2022/05/09/about-a-third-of-asian-americans-say-they-have-changed-their-daily-routine-due-to-concerns-over-threats-attacks/>.

partners, for fear of aggression or hostility from nearby strangers. The American Psychological Association notes that experiences of discrimination and hate crimes can lead to increased rates of depression, anxiety, post-traumatic stress disorder, as well as to increased rates of physical ailments like diabetes, hypertension and obesity.⁶ Young adults who are frequently faced with discrimination are around 25 percent more likely to be diagnosed with a mental health disorder, and twice as likely to develop severe psychological distress.

3. Current strategies to combat hate crime

Currently, there are a number of ways that the state tries to deal with hate crimes. Under section 13023 of the penal code, law enforcement agencies are required to collect data on hate crimes and provide that data to the Attorney General, who then must report this data online and to the Legislature annually. The Federal Bureau of Investigation also tracks and reports on hate crimes nationally.

In addition, Attorney General Rob Bonta announced in 2021 a plan to create a Racial Justice Bureau and a virtual convening against hate crime. The Bureau will be based in the Department of Justice, and aims to tackle hate crime through outreach with community organizations and law enforcement on hate crime prevention, information sharing, and reporting. The Attorney General also developed a Hate Crime Rapid Response Protocol that acts as a supplemental resource to local, state, and federal law enforcement's investigation and prosecution of hate crimes through resources for skilled law enforcement, lawyers for civil rights issues, and victim services professionals. The California Department of Social Services likewise runs a grant program called Stop the Hate to fund nonprofits to provide support and services to victims and survivors of hate incidents and hate crimes. (Gov. Code § 8260.) The California Civil Rights Department (CRD) runs the California vs. Hate Resource Line and Network, which is similarly aimed at hate crime reporting and services for victims of hate crimes. In 2021, AB 1126 (Bloom, Ch. 712, Stats. 2021) created the Commission on the State of Hate, which establishes a commission with a similar structure to the working group established by this bill to specifically provide resources and assistance with other state agencies and local law enforcement and the public on the state of hate crimes and trends, to engage in fact-finding and data collection on hate crimes, and to advise the Legislature, Governor, and state agencies on policy recommendations to prevent hate. The Commission has yet to release its first report.

⁶ Amy Novotney, "Hate crimes are on the rise in the U.S. What are the psychological effects?" American Psychological Association (May 18, 2023), available at <https://www.apa.org/topics/gun-violence-crime/hate-crimes>.

4. AB 1079 aims to prevent hate crime through media campaigns and a “Hate Crimes Intervention Program”

Despite these programs, hate crime continues to exist and be a grave ill on California communities. AB 1079 aims to prevent hate crimes before they occur through two new programs: a Hate Crimes Intervention Program within the Department of Public Health (DPH), and statewide and regional radio, social media, and television campaigns to discourage discrimination against individuals or groups. These programs will be related to but substantially different from current programs because they are aimed at preventing hate crimes from occurring through media campaigns against hate, and approach hate crimes from the lens of public health.

To implement the media campaign, AB 1079 directs the DPH to convene a working group to develop a plan for the campaign. The working group would be comprised of one member from the Assembly and Senate and nine appointees with expertise in the field of marketing and messaging. The working group’s members must reflect the geographic and demographic diversity of the state. AB 1079 also mandates that the percentage of advertising campaigns created by the working group be based on the rate of hate crimes committed against each community respectively. This would mean the advertisements would be tailored to address hate towards specific groups proportionally to that community’s share of the overall hate crimes committed against all groups. It should be noted that these percentages will be based on the data on hate crimes reported by the Attorney General; because of potential disparities in hate crimes reporting related to cultural practices of individuals, their likeliness to report hate crimes, and policies of law enforcement or community policing, actual levels of specific types of hate crimes toward particular groups may vary some from the data reported by the Attorney General. AB 1079 also clarifies that the media campaigns created by the bill will not be operative until the Legislature appropriates funds in the Budget Act for the program. The campaigns will begin on or before either July 1, 2025, or one year after the date of an appropriation of funds for the campaigns by the Legislature.

In addition to the creation of the media campaigns outlined above, AB 1079 directs the DPH to establish a Hate Crimes Intervention Program to implement research-based community interventions. These interventions shall be implemented in conjunction with community leaders and organizations in communities that have been most impacted by hate crimes. AB 1079 does not define “research-based community interventions,” but in doing so will afford DPH and the Intervention Program flexibility to define those terms and the programs it implements with the input of affected communities and experts.

5. AB 1079 will combat hate where hate has flourished

While the exact causes of hate crime and the bias and prejudicial beliefs that underlie it may be difficult to identify with exactitude, research has suggested that social media

has fueled hate crimes and attacks against marginalized communities.⁷ Social media and the “echo chamber” often created on social media for certain ideologies has helped embolden hate, radicalize sympathetic individuals, and reinforce hateful ideologies. Thus, AB 1079 aims to combat the spread of hate and hate crime where it flourishes: in social media and other forms of media. Unlike the other strategies currently pursued by the state, AB 1079 will seek to prevent hate crime by countering narratives spread through media that promote and encourage hate. Furthermore, it gives the working group and the Intervention Program it creates the flexibility to design and implement programs to be as effective as possible, according to experts and the communities most affected.

6. Concerns regarding the data used to design AB 1079’s media campaigns

The Arc & United Cerebral Palsy California Collaboration has voiced concerns with AB 1079’s design parameters for the media campaigns created by the bill. While the Collaboration applauds and supports AB 1079’s intent, it asserts that the use of the California Department of Justice’s annual hate crimes data would overlook anti-disability hate crimes. It asserts that this is because the hate crimes report is based on reports from law enforcement agencies, and law enforcement agencies almost never recognize anti-disability hate crimes as hate crimes, and victims may not report the crime. The Collaboration asserts that another data source would be more appropriate: the United States Bureau of Justice Statistics’ National Crime Victimization Survey Data. That data, according to the Collaboration, estimates that 11 percent of all hate crimes are anti-disability hate crimes, though the Collaboration does recognize that this data set is also still flawed.

While the Collaboration may be raising valid points both regarding the flaws in the California Department of Justice data on hate crimes and the underreporting of anti-disability hate crimes, the author asserts that AB 1079 will nonetheless still address the Collaboration’s concerns. That is because AB 1079 states that the percentage allocated based on the rate of hate crimes committed against each community will be based on the Department of Justice report “or other reliable and more accurate data on hate violence.” Thus, the working group that will design and implement the media campaign will be free to utilize the data cited by the Arc & United Cerebral Palsy California Collaboration, instead of or in addition to the California Department of Justice data. Considering that the working group will include nine experts on marketing and hate crimes, that will be representative of the geographic and demographic diversity of the state, there may be additional opportunities for input in the process of

⁷ Rachel Hatzipanagos, “How online hate turns into real-life violence,” *The Washington Post* (Nov. 30, 2018 2:31 am), available at <https://www.washingtonpost.com/nation/2018/11/30/how-online-hate-speech-is-fueling-real-life-violence/>; Karsten Muller & Carlo Schwarz, *Fanning the Flames of Hate: Social Media and Hate Crime*, J. of the European Economic Assoc. 19(5) (Oct. 2020), available at https://www.researchgate.net/publication/346110180_Fanning_the_Flames_of_Hate_Social_Media_and_Hate_Crime.

implementing the media campaign for experts on crimes committed against individuals with disabilities, thereby ensuring such crimes are addressed and included in the media campaign.

SUPPORT

Anti-Defamation League (sponsor)
California Faculty Association
National Association of Social Workers - California Chapter
The Arc & United Cerebral Palsy California Collaboration (Support if amended)

OPPOSITION

None known

RELATED LEGISLATION

Pending Legislation:

SCR 15 (Res. Ch. 8, Stats. 2023) makes numerous resolutions and findings relating to hate crime, denounces hate crimes, and resolves that January 28 is proclaimed Stand Against Hate Action Day.

AB 449 (Ting, 2023) requires local law enforcement agencies to adopt a hate crimes policy, and specifies that such policies must include the supplemental hate crime report and a schedule of hate crime or related trainings the agency conducts. AB 449 is pending before the Senate Appropriations Committee.

AB 644 (Jones-Sawyer, 2023) requires the Chancellor of the California Community Colleges, the Chancellor of the California State University, and the President of the University of California to develop and regularly review and update questions on campus safety related to hate crimes to be incorporated into an online survey for campus safety, and requires the California Community Colleges, California State University, and the University of California to provide reports on the survey to the Legislature. AB 644 was held in the Assembly Higher Education Committee.

AB 1064 (Low, 2023) revises the definition of "hate crime" as a criminal act that is motivated in whole or in part by a bias against one or more of the protected characteristics and gives examples as to what may be evidence of such bias. AB 1064 was held on suspense in the Assembly Appropriations Committee.

AB 1185 (Gabriel, 2023) authorizes grants, under the California State Nonprofit Security Grant Program, to be awarded to a nonprofit organization or state or local governmental entity to support other nonprofits organizations that are at a high risk for

violent attacks and hate crimes, as defined. AB 1185 is pending in the Senate Governmental Organization Committee.

AB 1691 (Ortega, 2023) subject to appropriation by the Legislature, creates a grant program within the Department of Justice to provide grants to community-based organizations for the implementation of restorative justice programs focused on hate violence. AB 1691 was held in the Assembly Committee on Public Safety.

Prior Legislation:

AB 1126 (Bloom, Ch. 712, Stats. 2021) established the Commission on the State of Hate to provide resources to various state agencies and the public to inform them on the state of hate and advising the Legislature, the Governor, and state agencies on policy recommendations to promote inter-social education designed to foster mutual respect and understanding among California's diverse population. The bill required the commission to host and coordinate a minimum of 4 in-person or virtual community forums, open to the public, on the state of hate per year.

AB 1336 (Nguyen, 2021) would have required the Board of State and Community Corrections to establish a hate crimes task force to give grants to regional task forces made up of local law enforcement agencies to publish statistics on hate crimes. AB 1336 was held on suspense in the Assembly Appropriations Committee.

PRIOR VOTES:

Senate Health Committee (Ayes 10, Noes 0)

Assembly Floor (Ayes 75, Noes 0)

Assembly Appropriations Committee (Ayes 14, Noes 0)

Assembly Judiciary Committee (Ayes 9, Noes 1)

Assembly Health Committee (Ayes 13, Noes 0)
