
SENATE COMMITTEE ON PUBLIC SAFETY

Senator Steven Bradford, Chair

2021 - 2022 Regular

Bill No: AB 600 **Hearing Date:** July 13, 2021
Author: Arambula
Version: June 17, 2021
Urgency: No **Fiscal:** Yes
Consultant: MK

Subject: *Hate crimes: immigration status*

HISTORY

Source: Coalition for Humane Immigrant Rights

Prior Legislation: AB 1985 (Ting) Chapter 16, Stats 2018
AB 1161 (Ting), 2017, died in Assembly Appropriations
SR 55 (Skinner), 2017, adopted by the Senate
AB 887 (Atkins) Chapter 719, Stats. 2011
AB 1206 (Miller) failed Assembly Public Safety 2009
AB 412 (Carter) Chapter 106, 2009
SB 1234 (Kuehl) Chapter 700, Stats. 2004
AB 208 (Knox) - Chapter 566, Statutes of 1999
SB 1404 (Johnston) Chapter 414, Stats. 1998
AB 1450 (Shelley) Chapter 850, Stats. 1998
AB 1999 (Kuehl) Chapter 933, Stats. 1998
AB 51 (Murray) Chapter 740, Stats. 1997
SB 911 (Marks) Chapter 876, Stats. 1995
SB 1595 (Marks) Chapter 407, Stats. 1994
AB 3366 (Umberg) Chapter 266, Stats. 1992
AB 1009 (Roybal-Allard) Chapter 1184, Stats. 1991
SB 98 (Lockyer) Chapter 607, Stats. 1991

Support: California Teachers Association; San Diego County District Attorney's Office;
The Arc and United Cerebral Palsy California Collaboration

Opposition: None known

Assembly Floor Vote: 71 - 0

PURPOSE

The purpose of this bill is to clarify that “immigration status” is included in the scope of a “hate crime” based on “nationality,” and provides that this is declarative of existing law.

Existing law defines "hate crime" as any criminal act committed, in whole or in part, because of one or more of the following actual or perceived characteristics of the victim:

- a) Disability;
- b) Gender;

- c) Nationality;
- d) Race or ethnicity;
- e) Religion;
- f) Sexual orientation; and,
- g) Association with a person or group with one or more of these actual or perceived characteristics. (Penal Code § 422.55 (a).)

Existing law defines “nationality” to include “citizenship, country of origin, and national origin.” (Penal Code § 422.56 (e).)

Existing law provides that it is a hate crime to violate or interfere with the exercise of civil rights, or knowingly deface, destroy, or damage property because of actual or perceived characteristics of the victim that fit the hate crime definition. (Penal Code § 422.6 (a) and (b).)

Existing law provides that a conviction for violating or interfering with the civil rights of another of the basis of actual or perceived characteristics of the victim that fit the hate crime definition shall be punished by imprisonment in a county jail not to exceed one year, or by a fine not to exceed five thousand dollars (\$5,000), or by both the above imprisonment and fine, and the court shall order the defendant to perform a minimum of community service, not to exceed 400 hours, to be performed over a period not to exceed 350 days, during a time other than his or her hours of employment or school attendance. (Penal Code § 422.6 (c).)

Existing law provides that a person who commits a felony that is a hate crime by virtue of the fact it was committed in whole or in part because of actual or perceived characteristics that fit the hate crime definition, or attempts to do so, shall receive an additional term of one, two, or three years in the state prison, at the court's discretion. (Penal Code § 422.75 (a).)

Existing law provides that a person who commits a felony that is a hate crime by virtue of the fact it was committed in whole or in part because of actual or perceived characteristics that fit the hate crime definition, or attempts to do so, except as specified, and who voluntarily acted in concert with another person in the commission of the crime shall receive an additional term of two, three, or four years in the state prison, at the court's discretion. (Penal Code § 422.75(b).)

This bill clarifies that for the purposes of hate crimes “nationality” means country of origin, immigration status, including citizenship, and national origin.

This bill states that the inclusion of immigrations status, including citizenship in the definition of “nationality” for the purposes of hate crimes, is declaratory of existing law.

COMMENTS

1. Need for This Bill

According to the author:

Current law provides a number of protected classes for hate crime protection. These protected classes include 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. Although nationality arguably includes

immigrant status there are a number of jurisdictions that do not follow this interpretation. In expressly conforming to civil law protected classes, which does specifically list immigrant status, this bill clarifies what should be existing criminal law for hate crime purposes.

2. Clarifying nationality includes immigration status

Under existing law, it is a “hate crime” to commit a criminal act based on a person’s actual or perceived nationality. The Penal Code defines nationality in this context to mean “citizenship, country of origin, and national origin.” Other laws—in the Education Code, and the Unruh Civil Rights Act—also include “immigration status” in similar contexts as inclusive of “nationality” in defining classes of persons against whom it is unlawful to discriminate.

This bill provides that, declarative of existing law, the Penal Code definition of hate crime based on nationality also includes “immigration status.” There is no legal authority in case law that clearly states that immigration status is included, and typically, hate crime categories focus on a person’s “immutable characteristics,” and a person’s actual immigration status may change. However, because a hate crime based on a person’s immigration status emanates from their actual or perceived nationality and not their actual immigration status, this status is arguably encompassed by existing law. Thus, this bill clarifies that immigration status is included in nationality so interpretation of the law can be consistent throughout the state.

3. Argument in Support

The San Diego County District Attorney’s Office supports this bill stating:

Our office considers hate crimes to be very serious and is committed to prosecute hate crimes aggressively through vertical prosecution by the Hate Crimes Unit, within the Special Operations Division. The San Diego’s District Attorney’s Office estimates that 50 to 60 percent of the county’s hate crimes are race-based crimes, but these estimates continue to rise as the number of hate crimes against Asian Americans have escalated since the outbreak of COVID-19. AB 600 will help combat this growing crime.

The legislative proposal simply adds “immigration status” to the definition of “nationality” under Section 422.56 of the Penal Code. This small, but significant amendment provides another layer of protection for the vulnerable population in our busy cross-border region. As you may know, the populace of the San Diego–Tijuana is cosmopolitan in that many cultures and ethnic groups are present, and we welcome any tool to help us combat the growing hate crimes trend.

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