

AMENDED IN ASSEMBLY FEBRUARY 28, 2017

CALIFORNIA LEGISLATURE—2017–18 REGULAR SESSION

ASSEMBLY BILL

No. 2

**Introduced by Assembly Member Obernolte
(Principal coauthor: Assembly Member Salas)
(Coauthors: Assembly Members Cooper and Lackey)**

December 5, 2016

An act to ~~amend Section 422.55~~ of *add Section 422.555* to the Penal Code, relating to hate crimes.

LEGISLATIVE COUNSEL'S DIGEST

AB 2, as amended, Obernolte. Hate crimes: peace officers.

Existing law prohibits committing a battery upon another person. Violation of this prohibition is punishable as a misdemeanor or felony, depending on the extent of injury. Under existing law, there is a penalty enhancement for a battery committed against a peace officer who is engaged in the performance of his or her duties.

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. 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 the status as a peace officer to the list of actual or perceived characteristics necessary to determine whether a criminal act qualifies as a hate crime. By~~

This bill would make any criminal act, except the crime of resisting, delaying, or obstructing an officer, committed in whole or in part because of the victim’s status as a peace officer, as defined, 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 law enforcement agencies report to the Department of Justice and disseminate to crime victims and the public, this bill imposes 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.~~

- 1 ~~(2) Gender.~~
- 2 ~~(3) Nationality.~~
- 3 ~~(4) Race or ethnicity.~~
- 4 ~~(5) Religion.~~
- 5 ~~(6) Sexual orientation.~~
- 6 ~~(7) Status as a peace officer as defined in Section 830.~~
- 7 ~~(8) Association with a person or group with one or more of these~~
- 8 ~~actual or perceived characteristics.~~

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

11 *SECTION 1. Section 422.555 is added to the Penal Code,*
 12 *immediately following Section 422.55, to read:*

13 *422.555. Except for an act punishable under Section 148, a*
 14 *“hate crime,” for purposes of this title, includes a criminal act*
 15 *committed, in whole or in part, because of the victim’s status as*
 16 *a peace officer, as defined in Section 830.*

17 **SEC. 2.** No reimbursement is required by this act pursuant to
 18 Section 6 of Article XIII B of the California Constitution for certain
 19 costs that may be incurred by a local agency or school district
 20 because, in that regard, this act creates a new crime or infraction,
 21 eliminates a crime or infraction, or changes the penalty for a crime
 22 or infraction, within the meaning of Section 17556 of the
 23 Government Code, or changes the definition of a crime within the
 24 meaning of Section 6 of Article XIII B of the California
 25 Constitution.

26 However, if the Commission on State Mandates determines that
 27 this act contains other costs mandated by the state, reimbursement
 28 to local agencies and school districts for those costs shall be made
 29 pursuant to Part 7 (commencing with Section 17500) of Division
 30 4 of Title 2 of the Government Code.