



REPORT TO LAW & LEGISLATION COMMITTEE City of Sacramento

4

915 I Street, Sacramento, CA 95814-2671

Staff Report
April 17, 2007

Honorable Members of the
Law and Legislation Committee

Title: Legislative Position: Support SB 122, which would Add "homeless status" to the list of actual or perceived characteristics qualifying as a hate crime

Location/Council District: Citywide

Recommendation: Staff recommends that the Law and Legislation Committee adopt a support position on SB 122.

Contact: Yvette Rincon, Legislative Analyst, (916) 808-5827

Presenters: Yvette Rincon

Department: City Manager's Office

Division: Governmental Affairs

Organization No: 0310

Description/Analysis

Issue: Councilmembers Sheedy and McCarty requested that staff bring forward SB 122 for the Committee's consideration.

Existing law defines the term "hate crime" as a criminal act committed, in whole or in part, because of one or more actual or perceived characteristics of the victim. It also prohibits a person from willfully injuring, intimidating, interfering with, oppressing, or threatening any other person in the free exercise or enjoyment of any legal right because the victim has, or is perceived to have, one of those specified characteristics.

SB 122 would add "homeless status" to the list of actual or perceived characteristics qualifying as a hate crime. It defines "homeless status" as an individual's lack of a fixed, regular, and adequate nighttime residence, or an individual's use of a primary nighttime residence that is one of the following:

- A supervised shelter, either publicly or privately operated, that is designed to provide temporary living accommodations, including, but not

limited to, welfare hotels, congregate shelters, and transitional housing for the mentally ill.

- An institution that provides a temporary residence for individuals intended to be institutionalized.
- A public or private place not designed for, or ordinarily used as, a regular sleeping accommodation for human beings.

SB 122 creates a state-mandated local program because existing law requires every state and local law enforcement agency in the state to make a brochure on hate crimes available to victims of these crimes and to the public.

Policy Considerations: Homeless persons have been the victims of recent and more notable crimes based on their status. As such, the rising number of victims in this particular class of persons illustrates the growing need to include homeless persons as a protected class.

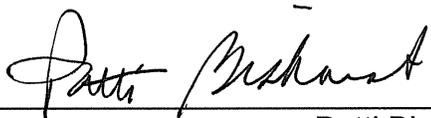
Environmental Considerations: None.

Committee/Commission Action: None.

Rationale for Recommendation: Supporting this bill would be consistent with the City's commitment to the homeless population.

Financial Considerations: SB 122 presents no fiscal impact on the City.

Emerging Small Business Development (ESBD): None

Approved by: 
 Patti Bisharat
 Director of Governmental Affairs

Recommendation Approved:

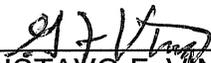

 GUSTAVO F. VINA
 Assistant City Manager

Table of Contents:
Pg 1 Report

Attachments

1	3	News Article
2	5	Draft Support Letter
3	6	Bill Text

Attachment 1

Contra Costa Times: "Homeless may get hate crime protection"

Wednesday, February 21, 2007

Report shows spike in number of attacks, often perpetrated by teenagers, prompting bill that would raise penalties for violence

By Sara Steffens and Karl Fischer
CONTRA COSTA TIMES

Growing numbers of the nation's homeless are falling victim to savage attacks by thrill-seeking teenagers, according to a report released Tuesday by a national advocacy group.

"Incident after incident, you see groups of three or four boys who have been drinking or taking illegal substances doing (the beatings) just for kicks," said Jessica Schuler, policy analyst for the National Coalition for the Homeless. "It's very disheartening."

In its annual report, "Hate, Violence and Death on Main Street USA," the coalition tracks news accounts of homeless people who were beaten, raped or killed by perpetrators who have homes.

One of the attacks featured in this year's report was a San Pablo case involving a rash of bloody attacks staged by teenagers and recorded on cell phone cameras. An electronic file on one phone showed teens beating a homeless man, police said.

The report details beatings last year in Sacramento, San Francisco, Fairfield and Modesto.

At least 106 homeless people were attacked in 2006, and an additional 20 were killed, the report shows.

Six others were set on fire.

Among the known perpetrators, 62 percent were teenagers, and 84 percent were age 25 or younger.

Schuler and other observers say the violence is fueled partly by "bum fights" videos, films sold online that show homeless people bribed to fight one another.

Hoping that stiffer penalties will deter such attacks, state Sen. Darrell Steinberg, D-Sacramento, has introduced a bill adding homeless people to the list of those protected by hate crime statutes.

"It horrifies me that this kind of behavior occurs in what we hope and think of as civil society," Steinberg said. "We ought to do everything we can as a society to send the message that that is unacceptable."

The beatings are symptomatic of a much deeper problem, said Steinberg, author of California's Mental Health Services Act: the stigma associated with homelessness and its underlying causes.

"Too many people think of those living with mental illness or those out on the street as something other than full human beings," he said. "This is obviously the worst sort of illustration of that."

If the bill passes, California would become the second state to protect homeless people against hate crimes. Maine passed similar legislation last year.

Brian Baker, a senior deputy in the Contra Costa District Attorney's Office, said local prosecutors see few cases of violence targeting the homeless.

Often, in cases investigated by police, the identity and motive of the attackers remain unknown.

In May 2003, for example, San Pablo police say three men beat and raped a homeless man with a broomstick in a vacant lot. The perpetrators were never found.

More recently, Richmond police sought community help to find the attackers of 49-year-old Ruth Ashley, who remains hospitalized after a Jan. 29 beating in south Richmond nearly killed her.

"There is a certain segment of the criminal population out there that looks for any easy target they can find. Obviously that includes the homeless," Richmond police Chief Chris Magnus said. "It is disturbing, but I don't know that it's a particularly new phenomenon."

At least two East Bay homeless people have been beaten to death in recent years. Two young men were convicted of killing Maria King of Berkeley in February 2005; three teenagers were charged in the case of Dalrus Joseph "DJ" Brown, who died in July 2004 after being beaten in West Oakland.

Community policing strategies call for improving communication between vulnerable groups such as the homeless and the surrounding community, Magnus said.

"It comes down to education, awareness and instilling the sense that police are there to serve them just as well as we serve anyone else."

April 17, 2007

The Honorable Darrell Steinberg
California State Senate
State Capitol, Room 4035
Sacramento, California 95814
ATTN: Legislative Director

Subject: Support SB 122 Hate Crimes. Homelessness

Dear Senator Steinberg:

On behalf of the City of Sacramento, I am pleased to write in support of SB 122. This bill would add "homeless status" to the list of actual or perceived characteristics qualifying as a hate crime.

Homeless persons have been the victims of recent and more notable crimes based on their status. As such, the rising number of victims in this particular class of persons illustrates the growing need to include homeless persons as a protected class. We believe this legislation will send the message that harming homeless persons is not acceptable. The City of Sacramento is committed to addressing its homeless issues and is currently working towards a ten year plan to end homelessness.

Thank you for introducing this important legislation.

Sincerely,

SANDY SHEEDY, Chair
Law and Legislation Committee

cc: Senator Dave Cox, Principal Coauthor
Assembly Member Dave Jones
Assembly Member Alan Nakanishi
Assembly Member Roger Niello
Mayor Fargo and Members of the City Council
David Jones, Emanuels and Jones and Associates

Introduced by Senators Steinberg, Kuehl, and Yee

January 22, 2007

An act to amend Sections 422.55 and 422.56 of the Penal Code, relating to crimes.

LEGISLATIVE COUNSEL'S DIGEST

SB 122, as introduced, Steinberg. Hate crimes: homelessness.

Existing law defines the term "hate crime" as a criminal act committed, in whole or in part, because of one or more specified actual or perceived characteristics of the victim. Existing law prohibits a person from willfully injuring, intimidating, interfering with, oppressing, or threatening any other person in the free exercise or enjoyment of any legal right because the victim has, or is perceived to have, one of those specified characteristics. Existing law also prohibits a person from knowingly defacing, damaging, or destroying the real or personal property of any other person for the purpose of intimidating or interfering with the free exercise or enjoyment of any legal right because the victim has, or is perceived to have, one of those characteristics.

This bill would add "homeless status" to the list of actual or perceived characteristics qualifying as a hate crime. The bill would also define "homeless status" for purposes of those provisions.

Existing law makes a violation of the hate crime provisions punishable by imprisonment in a county jail not to exceed one year, or by a fine not to exceed \$5,000, or by both that fine and imprisonment. Existing law also imposes enhanced penalties for a hate crime with specified aggravating factors and circumstances.

Because this bill would expand the scope of an existing crime, it would impose a state-mandated local program.

Existing law requires every state and local law enforcement agency in the state to make a brochure on hate crimes available to victims of these crimes and to the public. Existing law further requires the Department of Fair Employment and Housing to provide existing brochures to local law enforcement agencies upon request for reproduction and distribution to victims of hate crimes and other interested parties, as specified.

By imposing new duties on local law enforcement agencies with regard to providing hate crime brochures, the bill would constitute 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) *Homeless status*.
- 12 (~~3~~)
- 13 (4) Nationality.
- 14 (~~4~~)
- 15 (5) Race or ethnicity.
- 16 (~~5~~)

1 (6) Religion.

2 ~~(6)~~

3 (7) Sexual orientation.

4 ~~(7)~~

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

7 (b) "Hate crime" includes, but is not limited to, a violation of
8 Section 422.6.

9 SEC. 2. Section 422.56 of the Penal Code is amended to read:
10 422.56. For purposes of this title, the following definitions
11 shall apply:

12 (a) "Association with a person or group with these actual or
13 perceived characteristics" includes advocacy for, identification
14 with, or being on the ground owned or rented by, or adjacent to,
15 any of the following: a community center, educational facility,
16 family, individual, office, meeting hall, place of worship, private
17 institution, public agency, library, or other entity, group, or person
18 that has, or is identified with people who have, one or more of
19 those characteristics listed in the definition of "hate crime" under
20 paragraphs 1 to 6, inclusive, of subdivision (a) of Section 422.55.

21 (b) "Disability" includes mental disability and physical disability
22 as defined in Section 12926 of the Government Code.

23 (c) "Gender" means sex, and includes a person's gender identity
24 and gender related appearance and behavior whether or not
25 stereotypically associated with the person's assigned sex at birth.

26 (d) "*Homeless status*" means *an individual's lack of a fixed,*
27 *regular, and adequate nighttime residence, or an individual's use*
28 *of a primary nighttime residence that is one of the following:*

29 (1) *A supervised shelter, either publicly or privately operated,*
30 *that is designed to provide temporary living accommodations,*
31 *including, but not limited to, welfare hotels, congregate shelters,*
32 *and transitional housing for the mentally ill.*

33 (2) *An institution that provides a temporary residence for*
34 *individuals intended to be institutionalized.*

35 (3) *A public or private place not designed for, or ordinarily*
36 *used as, a regular sleeping accommodation for human beings.*

37 *The term "homeless status" does not refer to any individual*
38 *imprisoned or otherwise detained pursuant to state or federal law.*

39 ~~(d)~~

1 (e) “In whole or in part because of” means that the bias
2 motivation must be a cause in fact of the offense, whether or not
3 other causes also exist. When multiple concurrent motives exist,
4 the prohibited bias must be a substantial factor in bringing about
5 the particular result. There is no requirement that the bias be a
6 main factor, or that the crime would not have been committed but
7 for the actual or perceived characteristic. This subdivision does
8 not constitute a change in, but is declaratory of, existing law under
9 In re M.S.(1995) 10 Cal. 4th M.S. (1995) 10 Cal.4th 698 and People
10 v. Superior Court (Aishman)(1995) 10 Cal. 4th 735.

11 (e)

12 (f) “Nationality” includes citizenship, country of origin, and
13 national origin.

14 (f)

15 (g) “Race or ethnicity” includes ancestry, color, and ethnic
16 background.

17 (g)

18 (h) “Religion” includes all aspects of religious belief,
19 observance, and practice and includes agnosticism and atheism.

20 (h)

21 (i) “Sexual orientation” means heterosexuality, homosexuality,
22 or bisexuality.

23 (i)

24 (j) “Victim” includes, but is not limited to, a community center,
25 educational facility, entity, family, group, individual, office,
26 meeting hall, person, place of worship, private institution, public
27 agency, library, or other victim or intended victim of the offense.

28 SEC. 3. No reimbursement is required by this act pursuant to
29 Section 6 of Article XIII B of the California Constitution for certain
30 costs that may be incurred by a local agency or school district
31 because, in that regard, this act creates a new crime or infraction,
32 eliminates a crime or infraction, or changes the penalty for a crime
33 or infraction, within the meaning of Section 17556 of the
34 Government Code, or changes the definition of a crime within the
35 meaning of Section 6 of Article XIII B of the California
36 Constitution.

37 However, if the Commission on State Mandates determines that
38 this act contains other costs mandated by the state, reimbursement
39 to local agencies and school districts for those costs shall be made

1 pursuant to Part 7 (commencing with Section 17500) of Division
2 4 of Title 2 of the Government Code.

O