

NOTE: As provided in LFC policy, this report is intended for use by the standing finance committees of the legislature. The Legislative Finance Committee does not assume responsibility for the accuracy of the information in this report when used in any other situation.

Only the most recent FIR version, excluding attachments, is available on the Intranet. Previously issued FIRs and attachments may be obtained from the LFC office in Suite 101 of the State Capitol Building North.

FISCAL IMPACT REPORT

SPONSOR: SJC DATE TYPED: 03/15/01 HB _____
 SHORT TITLE: Crimes Based on Prejudice SB 419/SJCS
 ANALYST: Rael

APPROPRIATION

Appropriation Contained		Estimated Additional Impact		Recurring or Non-Rec	Fund Affected
FY01	FY02	FY01	FY02		
		Indeterminate - See Narrative		Recurring	General Fund

(Parenthesis () Indicate Expenditure Decreases)

SOURCES OF INFORMATION

Administrative Office of the Courts (AOC)
 Administrative Office of the District Attorneys (AODA)
 Public Defender Department (PDD)

SUMMARY

Synopsis of Bill

This bill enacts a new section of the criminal sentencing act that will increase a basic sentence of imprisonment when a crime is intentionally committed against a person or her property because of the offender's bias or prejudice against a group to which that person belongs, whether or not the offender's belief or perception that the person is a member of that group is correct. The bill creates enhanced graduated sentencing based on the severity of the offense.

The substitute bill differs from the original by stipulating that sentences cannot be in excess of specific time periods even though they are enhanced. The enhanced term may not be substituted or deferred, but permits alternative sentencing that includes: community service, counseling or education.

Crime/Conviction	Enhanced Term*	Term of Incarceration Limit
Petty Misdemeanor		
1 st	30 days	180 days
2 nd	60 days	180 days

Crime/Conviction Misdemeanor	Enhanced Term*	Term of Incarceration Limit**
1 st	90 days	364
2 nd	180 days	364

Crime/Conviction Non Violent Felony	Enhanced Term
1 st	1 year
2 nd	3 years

FISCAL IMPLICATIONS

See Administrative Implications below.

ADMINISTRATIVE IMPLICATIONS

The creation of a new offense may increase the amount of staff a District Attorney’s office needs to effectively prosecute this crime.

The AOC also reports that as penalties increase, potential imprisonment tends to inspire defendants to demand jury trials. It will cost the judicial information system \$400 for statewide update, distribution, and documentation of statutory changes. Any additional fiscal impact on the judiciary would be proportional to the enforcement of this law and commenced prosecutions. New laws, amendments to existing laws, and new hearings have the potential to increase caseloads in the courts, thus requiring additional resources to handle the increase. The increased workload would include not only initial case processing and judicial time but also the tracking of cases to completion, including probation and compliance with other conditions of release.

TECHNICAL ISSUES

An amendment would make the distinction between judge trials and jury trials more clear:

If the case is tried before a jury and if a prima facie case has been established showing that a "hate crime" has been committed, the court shall submit the issue to the jury by special interrogatory. If the case is tried by the court and if a prima facie case has been established showing that a "hate crime" has been committed, the court shall decide the issue and shall make a separate finding of fact regarding the issue.

FAR/ar