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AB-2282 Hate crimes: nooses, crosses, and swastikas. (2021-2022)

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Assembly Bill No. 2282

CHAPTER 397

An act to amend Section 11411 of the Penal Code, relating to crimes.

[Approved by Governor September 18, 2022. Filed with Secretary of State September 18, 2022.]

LEGISLATIVE COUNSEL'S DIGEST

AB 2282, Bauer-Kahan. Hate crimes: nooses, crosses, and swastikas.

Existing law establishes various offenses for a person who places or displays certain symbols, marks, signs, emblems, and other physical impressions, including, but not limited to, a Nazi swastika, hangs nooses, or burns or desecrates crosses or other religious symbols on private and nonprivate property, as specified, with the intent to terrorize a person, as specified. Existing law, for the first conviction, punishes a person who hangs a noose or places or displays a sign, mark, symbol, emblem, or other physical impression with the intent to terrorize a person, as specified, with imprisonment in county jail not to exceed one year, a fine not more than \$5,000, or both the fine and imprisonment, and with imprisonment in county jail not to exceed one year, a fine not to exceed \$15,000, or both the fine and imprisonment for a subsequent conviction. Existing law, for a person who engages in a pattern of conduct by placing or displaying certain symbols, as specified, allows a person's punishment to be increased to imprisonment of 16 months or 2 or 3 years, a fine not more than \$10,000, or both. Existing law punishes a person convicted of burning or desecrating a religious symbol with imprisonment for 16 months or 2 or 3 years, by a fine of not more than \$10,000, or by both the fine and imprisonment, or imprisonment in a county jail not to exceed one year, by a fine not to exceed \$5,000, or both the fine and imprisonment for the first conviction, and the same punishment for a subsequent conviction except the misdemeanor fine increases to \$15,000.

This bill would expand these offenses to include hanging a noose, placing or displaying a sign, mark, symbol, emblem, or other physical impression, including, but not limited to, a Nazi swastika, and burning, desecrating, or destroying a religious symbol, such as a cross, at schools and public places, generally, as specified, for the purpose of terrorizing a person, as specified. The bill would, for the first conviction, punish a person who hangs a noose, places or displays certain symbols, or burns or desecrates a religious symbol, as specified, with imprisonment for 16 months or 2 or 3 years, by a fine of not more than \$10,000, or both the fine and imprisonment, or by imprisonment in a county jail not to exceed one year, by a fine not to exceed \$5,000, or by both the fine and imprisonment. For a 2nd or subsequent conviction under these provisions, the bill would punish a person with imprisonment for 16 months or 2 or 3 years, by a fine of not more than \$15,000, or by both the fine and imprisonment, or by imprisonment in a county jail not to exceed one year, by a fine not to exceed \$10,000, or by both the fine and imprisonment.

This bill would state the intent of the Legislature is to criminalize, for the purpose of terrorizing a person, the display or placement of the Nazi swastika and not swastikas associated with Hinduism, Buddhism, and Jainism.

By creating a new crime, this bill would impose 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 no reimbursement is required by this act for a specified reason.

Vote: majority Appropriation: no Fiscal Committee: yes Local Program: yes

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1. Section 11411 of the Penal Code is amended to read:

11411. (a) It is the intent of the Legislature to criminalize the placement or display of the Nazi Hakenkreuz (hooked cross), also known as the Nazi swastika that was the official emblem of the Nazi party, for the purpose of terrorizing a person. This legislation is not intended to criminalize the placement or display of the ancient swastika symbols that are associated with Hinduism, Buddhism, and Jainism and are symbols of peace.

(b) A person who hangs a noose, knowing it to be a symbol representing a threat to life, on the private property of another, without authorization, for the purpose of terrorizing the owner or occupant of that private property or in reckless disregard of the risk of terrorizing the owner or occupant of that private property, or who hangs a noose, knowing it to be a symbol representing a threat to life, on the property of a school, college campus, public place, place of worship, cemetery, or place of employment, for the purpose of terrorizing a person who attends, works at, or is otherwise associated with the school, college campus, public place, place of worship, cemetery, or place of employment, shall be punished by imprisonment pursuant to subdivision (h) of Section 1170 for 16 months or two or three years, by a fine of not more than ten thousand dollars (\$10,000), or by both the fine and imprisonment, or 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 fine and imprisonment for the first conviction.

(c) A person who places or displays a sign, mark, symbol, emblem, or other physical impression, including, but not limited to, a Nazi swastika, on the private property of another, without authorization, for the purpose of terrorizing the owner or occupant of that private property or in reckless disregard of the risk of terrorizing the owner or occupant of that private property, or who places or displays a sign, mark, symbol, emblem, or other physical impression, including, but not limited to, a Nazi swastika, on the property of a school, college campus, public place, place of worship, cemetery, or place of employment, for the purpose of terrorizing a person who attends, works at, or is otherwise associated with the school, college campus, public place, place of worship, cemetery, or place of employment, shall be punished by imprisonment pursuant to subdivision (h) of Section 1170 for 16 months or two or three years, by a fine of not more than ten thousand dollars (\$10,000), or by both the fine and imprisonment, or in a county jail not to exceed one year, by a fine not to exceed five thousand dollars (\$5,000), or by both the fine and imprisonment for the first conviction.

(d) A person who burns or desecrates a cross or other religious symbol, knowing it to be a religious symbol, on the private property of another without authorization for the purpose of terrorizing the owner or occupant of that private property or in reckless disregard of the risk of terrorizing the owner or occupant of that private property, or who burns, desecrates, or destroys a cross or other religious symbol, knowing it to be a religious symbol, on the property of a school, college campus, public place, place of worship, cemetery, or place of employment for the purpose of terrorizing a person who attends, works at, or is otherwise associated with the school, college campus, public place, place of worship, cemetery, or place of employment shall be punished by imprisonment pursuant to subdivision (h) of Section 1170 for 16 months or two or three years, by a fine of not more than ten thousand dollars (\$10,000), or by both the fine and imprisonment, or by imprisonment in a county jail not to exceed one year, by a fine not to exceed five thousand dollars (\$5,000), or by both the fine and imprisonment for the first conviction.

(e) A second or subsequent conviction pursuant to subdivision (b), (c), or (d) shall be punished by imprisonment pursuant to subdivision (h) of Section 1170 for 16 months or two or three years, by a fine of not more than fifteen thousand dollars (\$15,000), or by both the fine and imprisonment, or by imprisonment in a county jail not to exceed one year, by a fine not to exceed ten thousand dollars (\$10,000), or by both the fine and imprisonment.

(f) As used in this section, "terrorize" means to cause a person of ordinary emotions and sensibilities to fear for personal safety.

(g) The provisions of this section are severable. If any provision of this section or its application is held invalid, that invalidity shall not affect other provisions or applications that can be given effect without the invalid provision or application.

SEC. 2. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs that may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.