



## Assemblymember Sydney Kamlager, District 54

### AB 333

#### IN BRIEF

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AB 333 will amend Penal Code section 186.22 to limit gang enhancements to the most serious offenses.

#### BACKGROUND & PROBLEM

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Gang enhancements are one of many additional punishments used to extend a person's sentence. However, vague definitions and weak standards of proof have cast a wide net, making gang enhancements one of the most devastating drivers of mass incarceration in the state. Gang enhancements are not an effective method of deterring crime or violence, and have been applied inconsistently and disproportionately against people of color: a staggering 92% of people who receive gang enhancements are people of color. These enhancements are responsible for the collective trauma of countless families and communities.

AB 333 begins to address this harm by making the standards for applying a gang enhancement more rigorous and by focusing its use on the most dangerous, violent and coordinated criminal activities as the Legislature and people of California intended.

California's gang enhancement was originally enacted in 1988 to "seek the eradication of criminal activity by street gangs." The Act aimed to eliminate gangs by creating a three-year enhancement for gang-related offenses. Proponents of the law [promised](#) the enhancement would only apply when "the provable purpose of the gang is to commit serious and violent crime and it can be shown that a gang member knew that was the gang's purpose when he joined."

But since that time, lawmakers, courts and [Prop. 21](#) (2000) have broadened enhancement application and increased penalties. In some circumstances, the enhancement can now impose a life sentence. In other cases, the enhancement can apply to nonviolent crimes and misdemeanors and result in long mandatory prison sentences.

The California Attorney General's [2019 Annual Report](#) on CalGang, the statewide intelligence database used by law enforcement to track purported gang members, revealed that those in the CalGang system were 65 percent Latinx,

24 percent Black, and 6 percent white. This is despite research showing that whites make up the largest group of youth gang members.

#### SOLUTION

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AB 333 will amend Penal Code section 186.22 to:

- End the ability of prosecutors to claim people are gang members simply because they may come from the same community, be related, or know each other
- Prohibit use of the current charged offense as proof of a "pattern" of criminal gang activity
- Remove specific crimes from the list of predicate offenses that allow gang enhancements to be charged
- Require direct evidence of current and active gang involvement and violence
- Bifurcate direct evidence of gang involvement from the guilt determination at trial

In doing so, AB 333 will advance the movements toward criminal, racial and social justice by ensuring gang enhancements are only used when necessary and fair.

#### SPONSORS

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The Anti-Recidivism Coalition, NextGen, The San Francisco Public Defender's Office, Silicon Valley DeBug

#### FOR MORE INFORMATION

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