

RCW 9A.36.078 Hate crime offenses—Finding. The legislature finds that crimes and threats against persons because of their race, color, religion, ancestry, national origin, gender, sexual orientation, gender expression or identity, or mental, physical, or sensory disabilities are serious and increasing. The legislature also finds that crimes and threats are often directed against interracial couples and their children or couples of mixed religions, colors, ancestries, or national origins because of bias and bigotry against the race, color, religion, ancestry, or national origin of one person in the couple or family. The legislature finds that the state interest in preventing crimes and threats motivated by bigotry and bias goes beyond the state interest in preventing other felonies or misdemeanors such as criminal trespass, malicious mischief, assault, or other crimes that are not motivated by hatred, bigotry, and bias, and that prosecution of those other crimes inadequately protects citizens from crimes and threats motivated by bigotry and bias. Therefore, the legislature finds that protection of those citizens from threats of harm due to bias and bigotry is a compelling state interest.

The legislature also finds that in many cases, certain discrete words or symbols are used to threaten the victims. Those discrete words or symbols have historically or traditionally been used to connote hatred or threats towards members of the class of which the victim or a member of the victim's family or household is a member. In particular, the legislature finds that cross burnings historically and traditionally have been used to threaten, terrorize, intimidate, and harass African Americans and their families. Cross burnings often preceded lynchings, murders, burning of homes, and other acts of terror. Further, Nazi swastikas historically and traditionally have been used to threaten, terrorize, intimidate, and harass Jewish people and their families. Swastikas symbolize the massive destruction of the Jewish population, commonly known as the holocaust. Therefore, the legislature finds that any person who burns or attempts to burn a cross or displays a swastika on the property of the victim or burns a cross or displays a swastika as part of a series of acts directed towards a particular person, the person's family or household members, or a particular group, knows or reasonably should know that the cross burning or swastika may create a reasonable fear of harm in the mind of the person, the person's family and household members, or the group.

The legislature also finds that attacks on religious places of worship and threatening defacement of religious texts have increased, as have assaults and attacks on those who visibly self-identify as members of a religious minority, such as by wearing religious head covering or other visible articles of faith. The legislature finds that any person who defaces religious real property with derogatory words, symbols, or items, who places a vandalized or defaced religious item or scripture on the property of a victim, or who attacks or attempts to remove the religious garb or faith-based attire of a victim, knows or reasonably should know that such actions create a reasonable fear of harm in the mind of the victim.

The legislature also finds that a hate crime committed against a victim because of the victim's gender may be identified in the same manner that a hate crime committed against a victim of another protected group is identified. Affirmative indications of hatred towards gender as a class is the predominant factor to consider. Other factors to consider include the perpetrator's use of language, slurs,

or symbols expressing hatred towards the victim's gender as a class; the severity of the attack including mutilation of the victim's sexual organs; a history of similar attacks against victims of the same gender by the perpetrator or a history of similar incidents in the same area; a lack of provocation; an absence of any other apparent motivation; and common sense.

The legislature recognizes that, since 2015, Washington state has experienced a sharp increase in malicious harassment offenses, and, in response, the legislature intends to rename the offense to its more commonly understood title of "hate crime offense" and create a multidisciplinary working group to establish recommendations for best practices for identifying and responding to hate crimes. [2019 c 271 s 1; 1993 c 127 s 1.]

Severability—1993 c 127: "If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected." [1993 c 127 s 7.]