

# HOUSE BILL REPORT

## SB 5952

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### As Passed House:

April 8, 2009

**Title:** An act relating to modifying the definition of "sexual orientation" for malicious harassment prosecution purposes.

**Brief Description:** Modifying the definition of "sexual orientation" for malicious harassment prosecution purposes.

**Sponsors:** Senators McDermott, Murray, Fairley, Prentice, Kohl-Welles, Kline, Pridemore, Tom, Regala, Jacobsen, Marr, Oemig, Haugen, Franklin, Hobbs and McAuliffe.

### Brief History:

#### Committee Activity:

Public Safety & Emergency Preparedness: 3/24/09, 3/25/09 [DP].

#### Floor Activity

Passed House: 4/8/09, 68-30.

### Brief Summary of Bill

- Changes the definition of "sexual orientation" to mirror the definition under the Washington's Labor Regulations Act and subsequently, expands the definition to include gender expression or gender identity.

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## HOUSE COMMITTEE ON PUBLIC SAFETY & EMERGENCY PREPAREDNESS

**Majority Report:** Do pass. Signed by 6 members: Representatives Hurst, Chair; O'Brien, Vice Chair; Appleton, Goodman, Kirby and Ross.

**Minority Report:** Do not pass. Signed by 2 members: Representatives Pearson, Ranking Minority Member; Klippert, Assistant Ranking Minority Member.

**Staff:** Yvonne Walker (786-7841)

### Background:

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*This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.*

A person is guilty of Malicious Harassment if he or she maliciously and intentionally causes physical injury to a victim, causes physical damage to the property of another, or threatens a specific group of persons, because of his or her perception of the victim's race, color, religion, ancestry, national origin, gender, "sexual orientation," or mental, physical, or sensory handicap.

Under the Washington Criminal Code, "sexual orientation" is defined as heterosexuality, homosexuality, or bisexuality.

Under the Labor Regulations Act (of the Revised Code of Washington 49.60.040), "sexual orientation" means heterosexuality, homosexuality, bisexuality, and gender expression or identity. As used in this definition, "gender expression or identity" means having or being perceived as having a gender identity, self-image, appearance, behavior, or expression, whether or not that gender identity, self-image, appearance, behavior, or expression is different from that traditionally associated with the sex assigned to that person at birth.

**Summary of Bill:**

Under the Washington Criminal Code, the definition of "sexual orientation" is changed to mirror the definition under the Labor Regulations Act. As a result, the definition of "sexual orientation" is expanded to include gender expression or identity.

**Appropriation:** None.

**Fiscal Note:** Not requested.

**Effective Date:** The bill takes effect 90 days after adjournment of the session in which the bill is passed.

**Staff Summary of Public Testimony:**

(In support) It is unfortunate that we need to have a malicious harassment statute in this state because some people are subjected to violence mainly due to the fact of who they are. In these cases it is not only about the violence perpetrated, but also that the purpose behind the violence is to cause fear to a whole group of individuals. In fact last year there were three assaults that took place on the Washington State University (WSU) campus within an eight-day period. All victims were targeted because of how they identified themselves. If this bill does not pass, the students at the WSU will feel that these specific groups of people do not matter to the Legislature.

When there is a law that protects a special marginalized class of individuals but transgendered individuals are not included in that law, then this group of people feel that they are not valued. Transgendered people are among the most vulnerable and misunderstood group of people in Washington. They should be included in this law that is meant to reduce violence. This bill is necessary to send a clear message that hate crimes will not be tolerated.

Originally, when sexual orientation was added to the malicious harassment hate crime statute, gender identity and expression were not included in that definition. This bill just

adds transgendered to the definition of sexual orientation in the malicious harassment statute. Thirty-nine percent of our country is already protected by hate crime laws. Twelve states have laws protecting transgendered people. This bill will punish the actions and not the thoughts and will help correct the imbalance that is out there. No one should be subjected to violence simply because of who they are.

(Opposed) None.

**Persons Testifying:** Senator McDermott, prime sponsor; Shawn Hoey, Associated Students of Washington State University; Ramsey Campbell, Equal Rights Washington and Washington Transgender Equality Project; Dave Iseminger, Washington Student Lobby; and Marsha Botzer, Washington Transgender Equality Project.

**Persons Signed In To Testify But Not Testifying:** None.