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**SENATE BILL 5038**

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**State of Washington**

**69th Legislature**

**2025 Regular Session**

**By** Senators Dhingra, Valdez, Salomon, Pedersen, and Trudeau

Prefiled 12/13/24.

1 AN ACT Relating to clarifying a hate crime offense; and amending  
2 RCW 9A.36.080.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

4 **Sec. 1.** RCW 9A.36.080 and 2024 c 34 s 1 are each amended to read  
5 as follows:

6 (1) A person is guilty of a hate crime offense if the person  
7 maliciously and intentionally commits one of the following acts in  
8 whole or in part because of their perception of another person's  
9 race, color, religion, ancestry, national origin, gender, sexual  
10 orientation, gender expression or identity, or mental, physical, or  
11 sensory disability:

12 (a) Assaults another person;

13 (b) Causes physical damage to or destruction of the property of  
14 another; or

15 (c) Threatens a specific person or group of persons and places  
16 that person, or members of the specific group of persons, in  
17 reasonable fear of harm to person or property. The fear must be a  
18 fear that a reasonable person would have under all the circumstances.  
19 For purposes of this section, a "reasonable person" is a reasonable  
20 person who is a member of the victim's race, color, religion,  
21 ancestry, national origin, gender, or sexual orientation, or who has

1 the same gender expression or identity, or the same mental, physical,  
2 or sensory disability as the victim. Words alone do not constitute a  
3 hate crime offense unless the context or circumstances surrounding  
4 the words indicate the words are a threat. Threatening words do not  
5 constitute a hate crime offense if it is apparent to the victim that  
6 the person does not have the ability to carry out the threat.

7 (2) In any prosecution for a hate crime offense, unless evidence  
8 exists which explains to the trier of fact's satisfaction that the  
9 person did not intend to threaten the victim or victims, the trier of  
10 fact may infer that the person intended to threaten a specific victim  
11 or group of victims because of the person's perception of the  
12 victim's or victims' race, color, religion, ancestry, national  
13 origin, gender, sexual orientation, gender expression or identity, or  
14 mental, physical, or sensory disability if the person commits one of  
15 the following acts:

16 (a) Burns a cross on property of a victim who is or whom the  
17 actor perceives to be of African American heritage;

18 (b) Defaces property of a victim who is or whom the actor  
19 perceives to be of Jewish heritage by defacing the property with a  
20 Nazi emblem, symbol, or hakenkreuz;

21 (c) Defaces religious real property with words, symbols, or items  
22 that are derogatory to persons of the faith associated with the  
23 property;

24 (d) Places a vandalized or defaced religious item or scripture on  
25 the property of a victim who is or whom the actor perceives to be of  
26 the faith with which that item or scripture is associated;

27 (e) Damages, destroys, or defaces religious garb or other faith-  
28 based attire belonging to the victim or attempts to or successfully  
29 removes religious garb or other faith-based attire from the victim's  
30 person without the victim's authorization; or

31 (f) Places a noose on the property of a victim who is or whom the  
32 actor perceives to be of a racial or ethnic minority group.

33 This subsection only applies to the creation of a reasonable  
34 inference for evidentiary purposes. This subsection does not restrict  
35 the state's ability to prosecute a person under subsection (1) of  
36 this section when the facts of a particular case do not fall within  
37 (a) through (f) of this subsection.

38 (3) It is not a defense that the accused was mistaken that the  
39 victim was a member of a certain race, color, religion, ancestry,  
40 national origin, gender, or sexual orientation, had a particular

1 gender expression or identity, or had a mental, physical, or sensory  
2 disability.

3 (4) Evidence of expressions or associations of the accused may  
4 not be introduced as substantive evidence at trial unless the  
5 evidence specifically relates to the crime charged. Nothing in this  
6 chapter shall affect the rules of evidence governing impeachment of a  
7 witness.

8 (5) Every person who commits another crime during the commission  
9 of a crime under this section may be punished and prosecuted for the  
10 other crime separately.

11 (6) For the purposes of this section:

12 (a) "Gender expression or identity" means having or being  
13 perceived as having a gender identity, self-image, appearance,  
14 behavior, or expression, whether or not that gender identity, self-  
15 image, appearance, behavior, or expression is different from that  
16 traditionally associated with the sex assigned to that person at  
17 birth.

18 (b) "Sexual orientation" means heterosexuality, homosexuality, or  
19 bisexuality.

20 (c) "Threat" means to communicate, directly or indirectly, the  
21 intent to:

22 (i) Cause bodily injury immediately or in the future to the  
23 person threatened or to any other person; or

24 (ii) Cause physical damage immediately or in the future to the  
25 property of a person threatened or that of any other person.

26 (7) Commission of a hate crime offense is a class C felony.

27 (8) The penalties provided in this section for hate crime  
28 offenses do not preclude the victims from seeking any other remedies  
29 otherwise available under law.

30 (9) Nothing in this section confers or expands any civil rights  
31 or protections to any group or class identified under this section,  
32 beyond those rights or protections that exist under the federal or  
33 state Constitution or the civil laws of the state of Washington.

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