

Judiciary Committee

SB 5451

Title: *An act relating to actions for crimes of violence motivated by gender.*

Brief Description: *Establishing a cause of action for crimes of violence motivated by gender.*

Sponsors: *By Senators Costa, Kline, McCaslin and Kohl-Welles; by request of Attorney General.*

Brief Summary of Bill

- *Establishes a civil cause of action against a person who commits a crime of violence motivated by gender.*

Hearing Date: *3/27/01*

Staff: *Edie Adams (786-7180).*

Background:

A person who is a victim of a crime may seek recovery for damages suffered as a result of the crime. A person may file an action for personal injury, or in the case of death, the person's estate or beneficiary may file an action for wrongful death. In a personal injury or wrongful death action, the defendant is liable for all damages suffered by the victim, including medical costs, lost earnings, pain and suffering, and mental distress. Victims of crime may also seek compensation through the Crime Victim's Compensation Program for medical and mental health costs and disability payments.

In addition, a person who is a victim of domestic violence, abuse, or harassment may seek a civil protection order, anti-harassment order, or a criminal no-contact order that restrains the defendant from contacting or coming near the victim.

The federal Violence Against Women Act (VAWA) creates a federal civil cause of action against any person who commits a crime of violence motivated by gender. A person injured by such a crime may recover compensatory damages, injunctive or declaratory

relief, or any other appropriate remedy. In May 2000, the United States Supreme Court struck down this provision of the VAWA. The Court found that Congress did not have the power under either the Commerce Clause or the Fourteenth Amendment to the United States Constitution to enact this provision. The Court noted that relief for victims of noneconomic crime is a matter of state concern.

Summary of Bill:

A right for all persons to be free from crimes motivated by gender is declared. A victim of gender-motivated violence may seek compensatory damages, injunctive relief, declaratory relief, or any other relief deemed appropriate by the court against the person who committed the crime of violence motivated by gender. The party who prevails in an action alleging gender-motivated violence is entitled to reasonable attorney fees and costs. A prior criminal complaint, prosecution, or conviction is not a prerequisite to establish the elements of a cause of action for gender-motivated violence.

A "crime of violence motivated by gender" is defined as a crime of violence that is committed because of gender or on the basis of gender and that is due at least in part to an animus based on the victim's gender. "Crime of violence" is defined as an act that would constitute a felony against the person or property if the act presents a serious risk of physical injury to another person, and includes any offense involving domestic violence. An act may be a "crime of violence" whether or not it results in criminal charges, prosecution, or conviction.

Appropriation: *None.*

Fiscal Note: *Available.*

Effective Date: *Ninety days after adjournment of session in which bill is passed.*