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## Public Safety Committee

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### HB 1732

**Brief Description:** Concerning identifying and responding to bias-based criminal offenses.

**Sponsors:** Representatives Valdez, Entenman, Ramos, Wylie, Gregerson, Dolan, Frame, Jinkins, Ortiz-Self, Orwall, Peterson, Ryu, Stanford, Kilduff, Santos, Thai, Senn, Macri and Pollet.

#### Brief Summary of Bill

- Changes the name of the criminal offense of "Malicious Harassment" to "Hate Crime Offense" and makes other terminology changes.
- Creates a multidisciplinary hate crime advisory working group within the Office of the Attorney General.

**Hearing Date:** 2/12/19

**Staff:** Omeara Harrington (786-7136).

#### Background:

##### Criminal Liability for Malicious Harassment.

A person is guilty of Malicious Harassment if the person maliciously and intentionally commits one of the following acts 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:

- causes physical injury to the victim or another person;
- causes physical damage to or destruction of the property of the victim or another person;
- or
- threatens a specific person or group of persons and places that person, or members of the specific group of persons, in reasonable fear of harm to person or property. The fear must be a fear that a reasonable person would have under the same circumstances. For purposes of the offense, a "reasonable person" is a reasonable person who is a member of the victim's race, color, religion, ancestry, national origin, gender, or sexual orientation, or who has the same mental, physical, or sensory handicap as the victim. Threatening words

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do not constitute malicious harassment if it is apparent to the victim that the person does not have the ability to carry out the threat.

Malicious Harassment is a class C felony carrying a maximum sentence of five years of imprisonment and/or a \$10,000 fine. Malicious Harassment is ranked as a seriousness level IV offense on the sentencing grid, carrying a standard range sentence of three to nine months of imprisonment for a first offense.

If a person commits another crime during the commission of Malicious Harassment, the person may be punished and prosecuted for the other crime separately.

#### Civil Liability for Malicious Harassment.

In addition to being subject to criminal penalties, a person who commits a Malicious Harassment offense may be civilly liable. The victim of a Malicious Harassment offense may bring a civil cause of action against the harasser for actual damages, punitive damages of up to \$10,000, and reasonable attorneys' fees and costs incurred in bringing the action.

#### Law Enforcement Training and Reporting of Malicious Harassment.

The Criminal Justice Training Commission (CJTC) provides basic law enforcement training and educational programs for law enforcement, corrections officers, and other public safety professionals in Washington. The CJTC is required to provide training for law enforcement officers in identifying, responding to, and reporting all Malicious Harassment offenses, and any other crimes of bigotry or bias.

The Washington Association of Sheriffs and Police Chiefs (WASPC) is required to maintain a central repository for the collection and classification of information regarding Malicious Harassment violations and other crimes of bigotry and bias. All law enforcement agencies must file monthly reports of Malicious Harassment and other bias offenses to the WASPC for compilation into an annual report to the Governor and the Legislature.

#### **Summary of Bill:**

The criminal offense of Malicious Harassment is renamed "Hate Crime Offense." References to "handicap" in the Hate Crime Offense statute are removed and the term "disability" is used instead.

A multidisciplinary hate crime advisory working group is created within the Office of the Attorney General for the purpose of developing strategies toward raising awareness of and appropriate responses to hate crime offenses. The working group must be a collaboration between governmental entities, members of vulnerable communities, and persons with lived experience relating to these offenses. The Office of the Attorney General must convene the working group by September 1, 2019.

The working group's membership must include, at a minimum, representatives of: organizations representing protected groups under the Hate Crime Offense statute; faith organizations; victims' rights organizations; the Office of the Superintendent of Public Instruction; the Office of the

Governor; the Office of the Attorney General; law enforcement, including representatives of tribal police; emergency dispatchers; the Criminal Justice Training Commission; prosecutors; and criminal defense attorneys. The working group is encouraged to solicit participation and feedback from nonmember groups and individuals with relevant experience as needed.

The working group must develop recommended best practices for:

- preventing hate crimes through public awareness and anti-bias campaigns;
- increasing identification and reporting of hate crimes, including recommendations for standardization of data collection and reporting;
- strengthening law enforcement and prosecutorial responses to hate crime offenses through enhanced training and other measures; and
- supporting victims of hate crime offenses, in particular, identifying ways of strengthening law enforcement collaboration with, and victim connection to, community advocacy and support organizations.

The working group must hold at least four meetings. The Office of the Attorney General must report the working group's recommendations to the Governor and the Legislature by July 1, 2020.

**Appropriation:** None.

**Fiscal Note:** Requested on February 6, 2019.

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