

1 1037-S.E AMH PADD H4619.2

2 **ESHB 1037** - H AMD TO JUD COMM AMD 0054 FAILED 2/10/92

3 By Representatives Padden and Haugen

4

5 On page 1, at the beginning of the amendment, strike the entire
6 amendment and title amendment and insert the following:

7 **"ESHB 1037** - H AMD

8 By Representative Padden

9

10 Strike everything after the enacting clause and insert the
11 following:

12 "Sec. 1. RCW 9A.36.080 and 1989 c 95 s 1 are each amended to read
13 as follows:

14 (1) A person is guilty of malicious harassment if he or she
15 perceives, accurately or inaccurately, that another person is of a
16 particular race, color, religion, ancestry, national origin, has a
17 mental, physical, or sensory handicap, or is a member of any other
18 discrete or insular group that is commonly known to be the object of
19 widespread prejudice, bias, or discrimination, and maliciously and with
20 the intent to intimidate or harass ((another)) that person because of,
21 or in a way that is reasonably related to, associated with, or directed
22 toward, that person's perceived race, color, religion, ancestry,
23 national origin, ((or)) mental, physical, or sensory handicap, or
24 membership in any other discrete or insular group that is commonly
25 known to be the object of widespread prejudice, bias, or
26 discrimination:

27 (a) Causes physical injury to another person; or

28 (b) By words or conduct places another person in reasonable fear of
29 harm to his or her person or property or harm to the person or property

1 of a third person. Such words or conduct include, but are not limited
2 to, (i) cross burning, (ii) painting, drawing, or depicting symbols or
3 words (~~on the property of the victim~~) when the symbols or words
4 historically or traditionally connote hatred or threats toward the
5 victim, or (iii) written or oral communication designed to intimidate
6 or harass because of, or in a way that is reasonably related to,
7 associated with, or directed toward, that person's perceived race,
8 color, religion, ancestry, national origin, (~~or~~) mental, physical, or
9 sensory handicap, or membership in any other discrete or insular group
10 that is commonly known to be the object of widespread prejudice, bias,
11 or discrimination. However, it does not constitute malicious harassment
12 for a person to speak or act in a critical, insulting, or deprecatory
13 way unless the context or circumstances surrounding the words or
14 conduct places another person in reasonable fear of harm to his or her
15 person or property or harm to the person or property of a third person;
16 or

17 (c) Causes physical damage to or destruction of the property of
18 another person.

19 (2) The words or conduct do not have to be communicated or
20 conducted on the victim's property to violate subsection (1)(b) of this
21 section.

22 (3) The following constitute (~~per se~~) prima facie evidence of
23 violations of this section:

24 (a) Cross burning on the victim's property; or

25 (b) Defacement of the property of the victim (~~or a third person~~)
26 with symbols or words when the symbols or words historically or
27 traditionally connote hatred or threats toward the victim.

28 A judicial finding that conduct is not prima facie evidence of a
29 violation of this section shall not preclude the state from prosecuting
30 a person under subsection (1) of this section.

1 (~~(3)~~) (4) Malicious harassment is a class C felony.

2 (~~(4)~~) (5) In addition to the criminal penalty provided in
3 subsection (~~(3)~~) (4) of this section, there is hereby created a civil
4 cause of action for malicious harassment. A person may be liable to
5 the victim of malicious harassment for actual damages and punitive
6 damages of up to ten thousand dollars.

7 (~~(5)~~) (6) The penalties provided in this section for malicious
8 harassment do not preclude the victims from seeking any other remedies
9 otherwise available under law.

10 (7) Nothing in this section confers or expands any civil rights or
11 protections to any group or class identified under this section, beyond
12 those rights or protections that exist under the federal or state
13 Constitution or the civil laws of the state of Washington."

14 "NEW SECTION. Sec. 2. A new section is added to chapter 36.28A
15 RCW to read as follows:

16 (1) The Washington association of sheriffs and police chiefs shall
17 establish and maintain a central repository for the collection and
18 classification of information regarding violations of RCW 9A.36.080.
19 Upon establishing such a repository, the association shall develop a
20 procedure to monitor, record, and classify information relating to
21 violations of RCW 9A.36.080 and any other crimes of bigotry or bias
22 apparently directed against other persons because the people committing
23 the crimes perceived, accurately or inaccurately, that their victims
24 were of a particular race, color, religion, ancestry, national origin,
25 had a mental, physical, or sensory handicap, or were members of any
26 other discrete or insular group that is commonly known to be the object
27 of widespread prejudice, bias, or discrimination.

28 (2) All local law enforcement agencies shall report monthly to the
29 association concerning all violations of RCW 9A.36.080 and any other

1 crimes of bigotry or bias in such form and in such manner as prescribed
2 by rules adopted by the association. Agency participation in the
3 association's reporting programs, with regard to the specific data
4 requirements associated with violations of RCW 9A.36.080 and any other
5 crimes of bigotry or bias, shall be deemed to meet agency reporting
6 requirements. The association must summarize the information received
7 and file an annual report with the governor and the senate law and
8 justice committee and the house of representatives judiciary committee.

9 (3) The association shall disseminate the information according to
10 the provisions of chapters 10.97 and 10.98 RCW, and all other
11 confidentiality requirements imposed by federal or Washington law.

12 (4) The criminal justice training commission shall provide training
13 for law enforcement officers in identifying, responding to, and
14 reporting all violations of RCW 9A.36.080 and any other crimes of
15 bigotry or bias."

16 "NEW SECTION. **Sec. 3.** The provisions of this act shall be
17 liberally construed in order to effectuate its purpose."

18 "NEW SECTION. **Sec. 4.** If any provision of this act or its
19 application to any person or circumstance is held invalid, the
20 remainder of the act or the application of the provision to other
21 persons or circumstances is not affected."

22 "NEW SECTION. **Sec. 5.** If specific funding for the purposes of
23 implementing section 2(4) of this act, referencing this act by bill and
24 section number, is not provided by June 30, 1992, in the supplemental
25 omnibus appropriations act, section 2 of this act shall be null and
26 void."

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4 "On page 1, line 1 of the title, after "bias;" strike the remainder
5 of the title and insert "amending RCW 9A.36.080; adding a new section
6 to chapter 36.28A RCW; and creating new sections."