

2 2ESHB 1037 - S COMM AMD
3 By Committee on Law & Justice

4 ADOPTED 3/6/92

5 Strike everything after the enacting clause and insert the
6 following:

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

9 (1) A person is guilty of malicious harassment if he or she
10 maliciously and with the intent to intimidate or harass another person
11 because of, or in a way that is reasonably related to, associated with,
12 or directed toward, that person's race, color, religion, ancestry,
13 national origin, gender, or mental, physical, or sensory handicap:

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

15 (b) By words or conduct places another person in reasonable fear of
16 harm to his or her person or property or harm to the person or property
17 of a third person. Such words or conduct include, but are not limited
18 to, (i) cross burning, (ii) painting, drawing, or depicting symbols or
19 words on the property of the victim when the symbols or words
20 historically or traditionally connote hatred or threats toward the
21 victim, or (iii) written or oral communication designed to intimidate
22 or harass because of, or in a way that is reasonably related to,
23 associated with, or directed toward, that person's race, color,
24 religion, ancestry, national origin, gender, or mental, physical, or
25 sensory handicap. However, it does not constitute malicious harassment
26 for a person to speak or act in a critical, insulting, or deprecatory
27 way unless the context or circumstances surrounding the words or
28 conduct places another person in reasonable fear of harm to his or her

1 person or property or harm to the person or property of a third person;
2 or

3 (c) Causes physical damage to or destruction of the property of
4 another person.

5 (2) The following (~~constitute per se~~) creates a rebuttable
6 presumption of a violation(~~(s)~~) of this section:

7 (a) Cross burning; or

8 (b) Defacement of the property of the victim or a third person with
9 symbols or words when the symbols or words historically or
10 traditionally connote hatred or threats toward the victim.

11 (3) Malicious harassment is a class C felony.

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

17 (5) The penalties provided in this section for malicious harassment
18 do not preclude the victims from seeking any other remedies otherwise
19 available under law."

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

22 Crime reports prepared by the Washington association of sheriffs
23 and police chiefs on the crime of malicious harassment, RCW 9A.36.080,
24 shall comply with the guidelines established by the United States
25 attorney general under the authority of 28 U.S.C. 534 and the federal
26 hate crime statistics act, P.L. 101-275."

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4 On page 1, line 1 of the title, after "bias" strike the remainder
5 of the title and insert ", cross burning and defacement of property by
6 replacing the per se standard of the malicious harassment statute with
7 a rebuttable presumption standard; amending RCW 9A.36.080; adding a new
8 section to chapter 36.28A RCW; and prescribing penalties."