ENGROSSED SUBSTITUTE HOUSE BILL 1037
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State of Washington   **52nd Legislature**   **1992 Regular Session**

By House Committee on Judiciary (originally sponsored by Representatives Appelwick, Prince, Wineberry, Belcher, Heavey, R. Meyers, Dorn, H. Myers, Phillips, Wang, Miller, Ludwig, Prentice, Leonard, Locke, Riley, Fraser, R. King, Nelson, Pruitt, G. Fisher, Jacobsen, Anderson and Brekke; by request of Governor Gardner)

Read first time 02/08/91. Referred to Committee on Judiciary/H^R.

1   AN ACT Relating to crimes motivated by bigotry or bias; amending

2 RCW 9A.36.080; adding a new section to chapter 36.28A RCW; and creating

3 new sections.

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

5   **Sec. 1.** RCW 9A.36.080 and 1989 c 95 s 1 are each amended to read

6 as follows:

7   (1) A person is guilty of malicious harassment if he or she

8 maliciously and with the intent to intimidate or harass another person

9 because of, or in a way that is reasonably related to, associated with,

10 or directed toward, that person's perceived race, color, religion,

11 ancestry, national origin, sexual orientation, or mental, physical, or

12 sensory handicap:

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

1   (b) By words or conduct places another person in reasonable fear of

2   harm to his <u>or her</u> person or property or harm to the person or property

3   of a third person. Such words or conduct include, but are not limited

4   to, (i) cross burning, (ii) painting, drawing, or depicting symbols or

5   words on the property of the victim when the symbols or words

6   historically or traditionally connote hatred or threats toward the

7   victim, or (iii) written or oral communication designed to intimidate

8   or harass because of, or in a way that is reasonably related to,

9   associated with, or directed toward, that person's <u>perceived</u> race,

10 color, religion, ancestry, national origin, <u>sexual orientation,</u> or

11 mental, physical, or sensory handicap. However, it does not constitute

12 malicious harassment for a person to speak or act in a critical,

13 insulting, or deprecatory way unless the context or circumstances

14 surrounding the words or conduct places another person in reasonable

15 fear of harm to his or her person or property or harm to the person or

16 property of a third person; or

17   (c) Causes physical damage to or destruction of the property of

18 another person.

19   (2) <u>"Sexual orientation" for the purposes of this section, means</u>

20 <u>heterosexuality, homosexuality, or bisexuality.</u>

21   <u>(3)</u> The following constitute per se violations of this section:

22   (a) Cross burning; or

23   (b) Defacement of the property of the victim or a third person with

24 symbols or words when the symbols or words historically or

25 traditionally connote hatred or threats toward the victim.

26   ((~~(3)~~)) <u>(4)</u> Malicious harassment is a class C felony.

27   ((~~(4)~~)) <u>(5)</u> In addition to the criminal penalty provided in

28 subsection ((~~(3)~~)) <u>(4)</u> of this section, there is hereby created a civil

29 cause of action for malicious harassment. A person may be liable to

1 the victim of malicious harassment for actual damages and punitive

2 damages of up to ten thousand dollars.

3 (((5))) (6) The penalties provided in this section for malicious

4 harassment do not preclude the victims from seeking any other remedies

5 otherwise available under law.

6 (7) Nothing in this section confers or expands any civil rights or

7 protections to any group or class identified under this section, beyond

8 those rights or protections that exist under the federal or state

9 Constitution or the civil laws of the state of Washington.

10 NEW SECTION. **Sec. 2.** A new section is added to chapter 36.28A RCW

11 to read as follows:

12 (1) The Washington association of sheriffs and police chiefs shall

13 establish and maintain a central repository for the collection and

14 classification of information regarding violations of RCW 9A.36.080.

15 Upon establishing such a repository, the association shall develop a

16 procedure to monitor, record, and classify information relating to

17 violations of RCW 9A.36.080 and any other crimes of bigotry or bias

18 apparently directed against persons because of their perceived race,

19 color, religion, ancestry, national origin, sexual orientation, or

20 mental, physical, or sensory handicap.

21 (2) All local law enforcement agencies shall report monthly to the

22 association concerning all violations of RCW 9A.36.080 and any other

23 crimes of bigotry or bias in such form and in such manner as prescribed

24 by rules adopted by the association. Agency participation in the

25 association's reporting programs, with regard to the specific data

26 requirements associated with violations of RCW 9A.36.080 and any other

27 crimes of bigotry or bias, shall be deemed to meet agency reporting

28 requirements. The association must summarize the information received

1 and file an annual report with the governor and the senate law and

2 justice committee and the house of representatives judiciary committee.

3   (3) The association shall disseminate the information according to

4 the provisions of chapters 10.97 and 10.98 RCW, and all other

5 confidentiality requirements imposed by federal or Washington law.

6   (4) The criminal justice training commission shall provide training

7 for law enforcement officers in identifying, responding to, and

8 reporting all violations of RCW 9A.36.080 and any other crimes of

9 bigotry or bias.

10   NEW SECTION. **Sec. 3.**   The provisions of this act shall be

11 liberally construed in order to effectuate its purpose.

12   NEW SECTION. **Sec. 4.**   If any provision of this act or its

13 application to any person or circumstance is held invalid, the

14 remainder of the act or the application of the provision to other

15 persons or circumstances is not affected.

16   NEW SECTION. **Sec. 5.**   If specific funding for the purposes of

17 implementing section 2 of this act, referencing this act by bill

18 number, is not provided by June 30, 1991, in the omnibus operating

19 budget act for the 1991-93 biennium, section 2 of this act shall be

20 null and void.