

HB 1071 - H AMD 31

By Representative Graham

1 On page 1, after line 3, insert the following:

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3 "Sec. 1. RCW 9A.36.080 and 2019 c 271 s 2 are each amended to
4 read as follows:

5 (1) A person is guilty of a hate crime offense if he or she
6 maliciously and intentionally commits one of the following acts
7 because of his or her perception of the victim's race, color,
8 religion, ancestry, national origin, political affiliation or
9 ideology, gender, sexual orientation, gender expression or identity,
10 or mental, physical, or sensory disability:

11 (a) Causes physical injury to the victim or another person;

12 (b) Causes physical damage to or destruction of the property of
13 the victim or another person; or

14 (c) Threatens a specific person or group of persons and places
15 that person, or members of the specific group of persons, in
16 reasonable fear of harm to person or property. The fear must be a
17 fear that a reasonable person would have under all the
18 circumstances. For purposes of this section, a "reasonable person"
19 is a reasonable person who is a member of the victim's race, color,
20 religion, ancestry, national origin, gender, or sexual orientation,
21 or who has the same political affiliation or ideology, or the same
22 gender expression or identity, or the same mental, physical, or
23 sensory disability as the victim. Words alone do not constitute a
24 hate crime offense unless the context or circumstances surrounding
25 the words indicate the words are a threat. Threatening words do not
26 constitute a hate crime offense if it is apparent to the victim that
27 the person does not have the ability to carry out the threat.

1 (2) In any prosecution for a hate crime offense, unless evidence
2 exists which explains to the trier of fact's satisfaction that the
3 person did not intend to threaten the victim or victims, the trier
4 of fact may infer that the person intended to threaten a specific
5 victim or group of victims because of the person's perception of the
6 victim's or victims' race, color, religion, ancestry, national
7 origin, political affiliation or ideology, gender, sexual
8 orientation, gender expression or identity, or mental, physical, or
9 sensory disability if the person commits one of the following acts:

10 (a) Burns a cross on property of a victim who is or whom the
11 actor perceives to be of African American heritage;

12 (b) Defaces property of a victim who is or whom the actor
13 perceives to be of Jewish heritage by defacing the property with a
14 swastika;

15 (c) Defaces religious real property with words, symbols, or
16 items that are derogatory to persons of the faith associated with
17 the property;

18 (d) Places a vandalized or defaced religious item or scripture
19 on the property of a victim who is or whom the actor perceives to be
20 of the faith with which that item or scripture is associated;

21 (e) Damages, destroys, or defaces religious garb or other faith-
22 based attire belonging to the victim or attempts to or successfully
23 removes religious garb or other faith-based attire from the victim's
24 person without the victim's authorization; or

25 (f) Places a noose on the property of a victim who is or whom
26 the actor perceives to be of a racial or ethnic minority group.

27 This subsection only applies to the creation of a reasonable
28 inference for evidentiary purposes. This subsection does not
29 restrict the state's ability to prosecute a person under subsection
30 (1) of this section when the facts of a particular case do not fall
31 within (a) through (f) of this subsection.

32 (3) It is not a defense that the accused was mistaken that the
33 victim was a member of a certain race, color, religion, ancestry,
34 national origin, gender, or sexual orientation, had a particular

1 political affiliation or ideology, had a particular gender
2 expression or identity, or had a mental, physical, or sensory
3 disability.

4 (4) Evidence of expressions or associations of the accused may
5 not be introduced as substantive evidence at trial unless the
6 evidence specifically relates to the crime charged. Nothing in this
7 chapter shall affect the rules of evidence governing impeachment of
8 a witness.

9 (5) Every person who commits another crime during the commission
10 of a crime under this section may be punished and prosecuted for the
11 other crime separately.

12 (6) For the purposes of this section:

13 (a) "Gender expression or identity" means having or being
14 perceived as having a gender identity, self-image, appearance,
15 behavior, or expression, whether or not that gender identity, self-
16 image, appearance, behavior, or expression is different from that
17 traditionally associated with the sex assigned to that person at
18 birth.

19 (b) "Sexual orientation" means heterosexuality, homosexuality,
20 or bisexuality.

21 (c) "Threat" means to communicate, directly or indirectly, the
22 intent to:

23 (i) Cause bodily injury immediately or in the future to the
24 person threatened or to any other person; or

25 (ii) Cause physical damage immediately or in the future to the
26 property of a person threatened or that of any other person.

27 (7) Commission of a hate crime offense is a class C felony.

28 (8) The penalties provided in this section for hate crime
29 offenses do not preclude the victims from seeking any other remedies
30 otherwise available under law.

31 (9) Nothing in this section confers or expands any civil rights
32 or protections to any group or class identified under this section,
33 beyond those rights or protections that exist under the federal or
34 state Constitution or the civil laws of the state of Washington."

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2 Renumber the remaining sections consecutively and correct any
3 internal references accordingly.

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5 On page 14, line 14, after "origin," insert "political
6 affiliation or ideology,"

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8 Correct the title.

EFFECT: Provides that a person is guilty of a hate crime offense if he or she commits certain acts against another person because of his or her perception of the other person's political affiliation or ideology. Modifies the aggravating circumstance created in the bill to include circumstances in which the defendant's conduct in committing the offense was motivated by his or her perception of the victim's political affiliation or ideology.

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