

SENATE BILL REPORT

SSB 5917

As Passed Senate, February 2, 2024

Title: An act relating to criminal penalties for bias-motivated defacement of private or public property.

Brief Description: Concerning criminal penalties for bias-motivated defacement of private or public property.

Sponsors: Senate Committee on Law & Justice (originally sponsored by Senators Billig, Dhingra, Pedersen, Trudeau, Hasegawa, Kuderer, Liias, Lovick, Mullet, Nguyen, Nobles, Salomon, Valdez and Wilson, C.).

Brief History:

Committee Activity: Law & Justice: 1/18/24, 1/25/24 [DPS, DNP, w/oRec].

Floor Activity: Passed Senate: 2/2/24, 35-14.

<p style="text-align: center;">Brief Summary of First Substitute Bill</p> <ul style="list-style-type: none">• Modifies the elements of hate crimes.
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SENATE COMMITTEE ON LAW & JUSTICE

Majority Report: That Substitute Senate Bill No. 5917 be substituted therefor, and the substitute bill do pass.

Signed by Senators Dhingra, Chair; Trudeau, Vice Chair; Kuderer, Pedersen, Salomon and Valdez.

Minority Report: Do not pass.

Signed by Senators Padden, Ranking Member; McCune, Torres and Wilson, L..

Minority Report: That it be referred without recommendation.

Signed by Senator Wagoner.

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not part of the legislation nor does it constitute a statement of legislative intent.

Staff: Joe McKittrick (786-7287)

Background: A person is guilty of a hate crime offense if the person maliciously and intentionally commits one of the following acts because of the person's perception of the victim's race, color, religion, ancestry, national origin, gender, sexual orientation, gender expression or identity, or mental physical, or sensory disability:

- assaults 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 a reasonable person would have under all the circumstances. Reasonable person is defined as 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 gender expression or identity, or the same mental, physical, or sensory disability as the victim.

Words alone do not constitute a hate crime offense unless the context or circumstances surrounding the words indicate the words are a threat. Threatening words do not constitute a hate crime offense if it is apparent to the victim the person does not have the ability to carry out the threat.

Hate crime offenses are level IV class C felonies and classified as crimes against persons, meaning a person convicted of a hate crime who has no relevant criminal history would have a standard sentencing range of three to nine months imprisonment followed by up to 12 months of community custody.

Summary of First Substitute Bill: The elements of the hate crimes statute are amended. A person is guilty of a hate crime if the person maliciously and intentionally: (1) assaults another person; (2) causes physical damage to or destruction of the property of another; or (3) 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 because of the perpetrator's perception of another person's, race, color, religion, ancestry, national origin, gender, sexual orientation, gender expression or identity, or mental, physical, or sensory disability.

Appropriation: None.

Fiscal Note: Available.

Creates Committee/Commission/Task Force that includes Legislative members: No.

Effective Date: Ninety days after adjournment of session in which bill is passed.

Staff Summary of Public Testimony on First Substitute: PRO: This bill closes a loophole in the hate crimes law. Currently if a person defaces public property to target a protected class, it would not be considered a hate crime. While this bill makes small changes to the language of the statute, it will have monumental effects in helping to reduce hate crimes committed on public property. Defacing public expressions of inclusion is prevalent throughout the state, current state law is not strong enough to punish the perpetrators. Public expressions of inclusion of the LGBTQI+ community make the members of the community feel seen and vandalism of these symbols tear down that visibility. This bill sends a powerful message that Washington does not stand for hate of marginalized communities.

CON: While hate crimes are abhorrent, this bill relies on individual perception and interpretation to determine what constitutes a hate crime. Perception is not concrete and can evolve based on many factors. The ambiguities of this law will be abused.

Persons Testifying: PRO: Senator Andy Billig, Prime Sponsor; Betsy Wilkerson, Spokane City Council President; KJ January, Spectrum Center; Matt Danielson, Spokane Pride.

CON: Julie Barrett, Conservative Ladies of Washington.

Persons Signed In To Testify But Not Testifying: No one.