

---

SENATE BILL 5917

---

State of Washington

68th Legislature

2024 Regular Session

By Senators Billig, Dhingra, Pedersen, Trudeau, Hasegawa, Kuderer, Liiias, Lovick, Mullet, Nguyen, Nobles, Salomon, Valdez, and C. Wilson

Prefiled 12/28/23. Read first time 01/08/24. Referred to Committee on Law & Justice.

1 AN ACT Relating to criminal penalties for bias-motivated  
2 defacement of private or public property; and amending RCW 9A.36.080.

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

4 **Sec. 1.** RCW 9A.36.080 and 2023 c 52 s 1 are each amended to read  
5 as follows:

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

12 (a) Assaults (~~the victim or~~) another person;

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

15 (c) Writes, paints, or draws any inscription, figure, or mark of  
16 any type on any public or private building or other structure, any  
17 real or personal property, or any public property unless the person  
18 has obtained the express permission of the owner or operator of the  
19 property; or

20 (d) Threatens a specific person or group of persons and places  
21 that person, or members of the specific group of persons, in

1 reasonable fear of harm to person or property. The fear must be a  
2 fear that a reasonable person would have under all the circumstances.  
3 For purposes of this section, a "reasonable person" is a reasonable  
4 person who is a member of the victim's race, color, religion,  
5 ancestry, national origin, gender, or sexual orientation, or who has  
6 the same gender expression or identity, or the same mental, physical,  
7 or sensory disability as the victim. Words alone do not constitute a  
8 hate crime offense unless the context or circumstances surrounding  
9 the words indicate the words are a threat. Threatening words do not  
10 constitute a hate crime offense if it is apparent to the victim that  
11 the person does not have the ability to carry out the threat.

12 (2) In any prosecution for a hate crime offense, unless evidence  
13 exists which explains to the trier of fact's satisfaction that the  
14 person did not intend to threaten the victim or victims, the trier of  
15 fact may infer that the person intended to threaten a specific victim  
16 or group of victims because of the person's perception of the  
17 victim's or victims' race, color, religion, ancestry, national  
18 origin, gender, sexual orientation, gender expression or identity, or  
19 mental, physical, or sensory disability if the person commits one of  
20 the following acts:

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

23 (b) Defaces property of a victim who is or whom the actor  
24 perceives to be of Jewish heritage by defacing the property with a  
25 Nazi emblem, symbol, or hakenkreuz;

26 (c) Defaces religious real property with words, symbols, or items  
27 that are derogatory to persons of the faith associated with the  
28 property;

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

32 (e) Damages, destroys, or defaces religious garb or other faith-  
33 based attire belonging to the victim or attempts to or successfully  
34 removes religious garb or other faith-based attire from the victim's  
35 person without the victim's authorization; or

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

38 This subsection only applies to the creation of a reasonable  
39 inference for evidentiary purposes. This subsection does not restrict  
40 the state's ability to prosecute a person under subsection (1) of

1 this section when the facts of a particular case do not fall within  
2 (a) through (f) of this subsection.

3 (3) It is not a defense that the accused was mistaken that the  
4 victim was a member of a certain race, color, religion, ancestry,  
5 national origin, gender, or sexual orientation, had a particular  
6 gender expression or identity, or had a mental, physical, or sensory  
7 disability.

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

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

16 (6) For the purposes of this section:

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

23 (b) "Sexual orientation" means heterosexuality, homosexuality, or  
24 bisexuality.

25 (c) "Threat" means to communicate, directly or indirectly, the  
26 intent to:

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

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

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

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

35 (9) Nothing in this section confers or expands any civil rights  
36 or protections to any group or class identified under this section,  
37 beyond those rights or protections that exist under the federal or  
38 state Constitution or the civil laws of the state of Washington.

--- END ---