
SENATE BILL 5360

State of Washington

52nd Legislature

1991 Regular Session

By Senators Pelz, Rinehart, McMullen, Gaspard, Williams, Talmadge, Niemi, A. Smith and Wojahn; by request of Governor Gardner.

Read first time January 29, 1991. Referred to Committee on Law & Justice.

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 a new section.

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

14 (b) By words or conduct places another person in reasonable fear of
15 harm to his or her person or property or harm to the person or property

1 of a third person. Such words or conduct include, but are not limited
2 to, (i) cross burning, (ii) painting, drawing, or depicting symbols or
3 words on the property of the victim when the symbols or words
4 historically or traditionally connote hatred or threats toward the
5 victim, or (iii) written or oral communication designed to intimidate
6 or harass because of, or in a way that is reasonably related to,
7 associated with, or directed toward, that person's perceived race,
8 color, religion, ancestry, national origin, sexual orientation, or
9 mental, physical, or sensory handicap. However, it does not constitute
10 malicious harassment for a person to speak or act in a critical,
11 insulting, or deprecatory way unless the context or circumstances
12 surrounding the words or conduct places another person in reasonable
13 fear of harm to his or her person or property or harm to the person or
14 property of a third person; or

15 (c) Causes physical damage to or destruction of the property of
16 another person.

17 (2) "Sexual orientation" for the purposes of this section, means
18 heterosexuality, homosexuality, or bisexuality.

19 (3) The following constitute per se violations of this section:

20 (a) Cross burning; or

21 (b) Defacement of the property of the victim or a third person with
22 symbols or words when the symbols or words historically or
23 traditionally connote hatred or threats toward the victim.

24 ((+3)) (4) Malicious harassment is a class C felony.

25 ((+4)) (5) In addition to the criminal penalty provided in
26 subsection ((+3)) (4) of this section, there is hereby created a civil
27 cause of action for malicious harassment. A person may be liable to
28 the victim of malicious harassment for actual damages and punitive
29 damages of up to ten thousand dollars.

1 (~~(5)~~) (6) The penalties provided in this section for malicious
2 harassment do not preclude the victims from seeking any other remedies
3 otherwise available under law.

4 NEW SECTION. **Sec. 2.** A new section is added to chapter 36.28A RCW
5 to read as follows:

6 (1) The Washington association of sheriffs and police chiefs shall
7 establish and maintain a central repository for the collection and
8 classification of information regarding violations of RCW 9A.36.080.
9 Upon establishing such a repository, the association shall develop a
10 procedure to monitor, record, and classify information relating to
11 violations of RCW 9A.36.080 and any other crimes of bigotry or bias
12 apparently directed against persons because of their perceived race,
13 color, religion, ancestry, national origin, sexual orientation, or
14 mental, physical, or sensory handicap. The procedure may be
15 established within the association's incident-based reporting program.

16 (2) All local law enforcement agencies shall report monthly to the
17 association concerning all violations of RCW 9A.36.080 and any other
18 crimes of bigotry or bias in such form and in such manner as prescribed
19 by rules adopted by the association. Agency participation in the
20 incident-based reporting program, with regard to the specific data
21 requirements associated with violations of RCW 9A.36.080 and any other
22 crimes of bigotry or bias, shall be deemed to meet agency reporting
23 requirements. The association must summarize the information received
24 and file an annual report with the governor and the senate law and
25 justice committee and the house of representatives judiciary committee.

26 (3) The association shall disseminate the information according to
27 the provisions of chapters 10.97 and 10.98 RCW, and all other
28 confidentiality requirements imposed by federal or Washington law.

1 (4) The criminal justice training commission shall provide training
2 for law enforcement officers in identifying, responding to, and
3 reporting all violations of RCW 9A.36.080 and any other crimes of
4 bigotry or bias.

5 NEW SECTION. **Sec. 3.** The provisions of this act shall be
6 liberally construed in order to effectuate its purpose.

7 NEW SECTION. **Sec. 4.** If any provision of this act or its
8 application to any person or circumstance is held invalid, the
9 remainder of the act or the application of the provision to other
10 persons or circumstances is not affected.