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ENGROSSED SUBSTITUTE HOUSE BILL 1037

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State of Washington

52nd Legislature

1991 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 February 12, 1991.

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

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       (7) Nothing in this section confers or expands any civil rights or  
5 protections to any group or class identified under this section, beyond  
6 those rights or protections that exist under the federal or state  
7 Constitution or the civil laws of the state of Washington.

8       NEW SECTION. Sec. 2. A new section is added to chapter 36.28A RCW  
9 to read as follows:

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

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

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

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

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

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

14 NEW SECTION. **Sec. 5.** If specific funding for the purposes of  
15 implementing section 2 (1) and (4) of this act, referencing this act by  
16 bill number, is not provided by June 30, 1991, in the omnibus operating  
17 budget act for the 1991-93 biennium, section 2 of this act shall be  
18 null and void.