

---

SENATE BILL 6423

---

State of Washington                      52nd Legislature                      1992 Regular Session

By Senators Erwin and Craswell

Read first time 01/29/92. Referred to Committee on Law & Justice.

1            AN ACT Relating to malicious harassment because of race, color,  
2 religion, ancestry, national origin, or mental, physical, or sensory  
3 handicap; amending RCW 9A.36.080; adding a new section to chapter  
4 36.28A RCW; creating new sections; and prescribing penalties.

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

6            **Sec. 1.** RCW 9A.36.080 and 1989 c 95 s 1 are each amended to read  
7 as follows:

8            (1) A person is guilty of malicious harassment if he or she  
9 maliciously and (~~with the intent to intimidate or harass another~~  
10 ~~person because of, or in a way that is reasonably related to,~~  
11 ~~associated with, or directed toward,~~) intentionally threatens or  
12 intimidates a specific person or group of persons because of that  
13 person's race, color, religion, ancestry, national origin, (~~or~~)

1 mental, physical, or sensory handicap, or other characteristics which  
2 are the subject of discrimination:

3 (a) Causes physical injury to ~~((another))~~ that person or members of  
4 that group of persons; or

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

20 ~~(e))~~ Causes physical damage to or destruction of the property of  
21 ~~((another))~~ that person or members of that group of persons; or

22 (c) Creates a reasonable fear in the mind of that person, or in the  
23 minds of members of that group of persons, that he or she is, or they  
24 are, likely to suffer imminent harm to person or property.

25 (2) The following ~~((constitute per se violations))~~ create a  
26 rebuttable presumption of a violation of this section:

27 (a) Cross burning; or

28 (b) Defacement of the property of the victim or a third person with  
29 symbols or words when the symbols or words historically or  
30 traditionally connote hatred or threats toward the victim.

1 (3) Malicious harassment is a class C felony.

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

7 (5) The penalties provided in this section for malicious harassment  
8 do not preclude the victims from seeking any other remedies otherwise  
9 available under law.

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

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

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

1 and file an annual report with the governor, senate law and justice  
2 committee, and house of representatives judiciary committee.

3 (3) The association shall disseminate the information according to  
4 the provisions of chapters 10.97 and 10.98 RCW, the federal hate crime  
5 statistics act (104 Stat. 140), and all other confidentiality  
6 requirements imposed by federal or Washington law.

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

11 (5) In the biennial appropriations act, the legislature shall  
12 provide sufficient funds to the criminal justice training commission to  
13 implement subsections (1), (3), and (4) of this section.

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

16 NEW SECTION. **Sec. 4.** If any provision of this act or its  
17 application to any person or circumstance is held invalid, the  
18 remainder of the act or the application of the provision to other  
19 persons or circumstances is not affected.

20 NEW SECTION. **Sec. 5.** If specific funding for the purposes of  
21 implementing section 2(4) of this act, referencing this act by bill  
22 number, is not provided by June 30, 1992, in the supplemental omnibus  
23 appropriations act for the 1991-93 biennium, section 2 of this act is  
24 null and void.