

SENATE BILL REPORT

SB 5952

As of February 20, 2009

Title: An act relating to modifying the definition of "sexual orientation" for malicious harassment prosecution purposes.

Brief Description: Modifying the definition of "sexual orientation" for malicious harassment prosecution purposes.

Sponsors: Senators McDermott, Murray, Fairley, Prentice, Kohl-Welles, Kline, Pridemore, Tom, Regala, Jacobsen, Marr, Oemig, Haugen, Franklin, Hobbs and McAuliffe.

Brief History:

Committee Activity: Judiciary: 2/25/09.

SENATE COMMITTEE ON JUDICIARY

Staff: Juliana Roe (786-7438)

Background: Under current law, a person is guilty of malicious harassment if the person maliciously and intentionally commits one of the following acts because of his or her perception of the victim's race, color, religion, ancestry, national origin, gender, sexual orientation, or mental, physical, or sensory handicap: (a) causes physical injury to the victim or someone else; (b) causes physical damage to or destruction of the property of the victim or someone else; or (c) threatens a specific person or group of persons and puts that person, or that group in reasonable fear of harm. The fear must be fear that a reasonable person would have under 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 has the same mental, physical, or sensory handicap as the victim. Words alone do not constitute malicious harassment unless the words and circumstances indicate a threat. Malicious harassment is a class C felony.

"Sexual orientation" is defined as heterosexuality, homosexuality, or bisexuality.

Under labor regulations in RCW 49.60.040, "sexual orientation" means heterosexuality, homosexuality, bisexuality, and gender expression or identity. As used in this definition, "gender expression or identity" means having or being perceived as having a gender identity, self-image, appearance, behavior, or expression, whether or not that gender identity, self-

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image, appearance, behavior, or expression is different from that traditionally associated with the sex assigned to that person at birth.

Summary of Bill: The definition of "sexual orientation" is changed to mirror the definition provided in RCW 49.60.040.

Appropriation: None.

Fiscal Note: Not requested.

Committee/Commission/Task Force Created: No.

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