

HOUSE BILL REPORT

SSB 5427

As Reported by House Committee On:
Civil Rights & Judiciary

Title: An act relating to supporting people who have been targeted or affected by hate crimes and bias incidents by establishing a reporting hotline and tracking hate crimes and bias incidents.

Brief Description: Supporting people who have been targeted or affected by hate crimes and bias incidents by establishing a reporting hotline and tracking hate crimes and bias incidents.

Sponsors: Senate Committee on Ways & Means (originally sponsored by Senators Valdez, Billig, Cleveland, Dhingra, Frame, Hasegawa, Hunt, Keiser, Kuderer, Liias, Lovelett, Lovick, Saldaña, Salomon, Stanford and Wilson, C.).

Brief History:

Committee Activity:

Civil Rights & Judiciary: 2/16/24, 2/20/24 [DP].

Brief Summary of Substitute Bill

- Requires the Attorney General's Office to oversee a hotline to assist people who have been targeted or affected by hate crimes and bias incidents and to publish annual reports regarding hate crimes and bias incidents reported to the hotline during the prior calendar year.
- Prohibits disclosure of any reporting individual's personal identifying information in annual reports and exempts such information from disclosure under the Public Records Act.
- Requires law enforcement agencies receiving a report of a hate crime or bias incident to provide hotline information to the targeted or affected person.
- Directs the hotline to ask persons reporting a hate crime or bias incident whether it has been reported to law enforcement and, if the reporting

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person consents, to share that person's information with law enforcement.

HOUSE COMMITTEE ON CIVIL RIGHTS & JUDICIARY

Majority Report: Do pass. Signed by 6 members: Representatives Taylor, Chair; Farivar, Vice Chair; Goodman, Peterson, Thai and Walen.

Minority Report: Without recommendation. Signed by 5 members: Representatives Walsh, Ranking Minority Member; Graham, Assistant Ranking Minority Member; Abbarno, Cheney and Entenman.

Staff: John Burzynski (786-7133).

Background:

Hate Crime Offenses.

A person is guilty of a hate crime offense if he or she 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, gender expression or identity, or mental, physical, or sensory disability:

- assaults the victim or another person;
- causes physical damage to or destruction of the property of the victim or another person; or
- threatens a specific person or group of persons and places that person, or members of the specific group of persons, in reasonable fear of harm to person or property. The fear must be a fear that a reasonable person would have under all the circumstances. For purposes of this provision, a "reasonable person" is a reasonable person who is a member of the victim's race, color, religion, ancestry, national origin, gender, or sexual orientation, or who has the same gender expression or identity, or the same mental, physical, or sensory disability as the victim. Words alone do not constitute a hate crime offense unless the context or circumstances surrounding the words indicate the words are a threat. Threatening words do not constitute a hate crime offense if it is apparent to the victim that the person does not have the ability to carry out the threat.

Commission of a hate crime offense is a class C felony.

Law Against Discrimination.

Washington's Law Against Discrimination prohibits discrimination on the basis of race, creed, color, national origin, citizenship or immigration status, sex, honorably discharged veteran or military status, sexual orientation, or the presence of any sensory, mental, or

physical disability, or the use of a trained dog guide or service animal by a person with a disability. The right to be free from such discrimination applies in employment, access to public accommodations, real estate transactions, credit transactions, insurance transactions, and other contexts.

Any person injured by a violation of the Law Against Discrimination may bring a civil action in a court of competent jurisdiction to enjoin violations and recover actual damages and the costs of suit, including reasonable attorneys' fees.

Public Records Act.

Washington's Public Records Act provides for the disclosure of public records. Each state and local agency, in accordance with published rules, must make all public records available for public inspection and copying, unless the record falls within a specific exemption. Public records include all writings containing information relating to the conduct of government or the performance of any governmental or proprietary function prepared, owned, used, or retained by any state or local agency regardless of physical form or characteristics.

Summary of Bill:

Hate Crimes and Bias Incidents Hotline.

The Attorney General's Office is required to oversee a hate crimes and bias incidents hotline staffed during business hours and dedicated to assisting people who have been targeted or affected by hate crimes and bias incidents. The hotline must provide information and referrals to people targeted or affected by hate crimes and bias incidents, and must be victim-centered, culturally competent, and trauma-informed. The hotline must also be accessible to as many as possible within resource limits, regardless of language proficiency.

The Attorney General's Office must identify local service providers and culturally specific services for referrals, coordinate and partner with counties and other relevant hotlines, and establish an advisory committee to provide advice and assistance regarding program design, operation, outreach, service delivery objectives and priorities, and funding.

Implementation.

By July 1, 2025, the Attorney General's Office must develop and implement a pilot hotline program to assist individuals in at least three counties, including one county in Eastern Washington. By January 1, 2027, the hotline must be implemented statewide.

Annual Report.

By July 1, 2027, and each year thereafter, the Attorney General's Office must publish information regarding hate crimes and bias incidents reported to the hotline during the prior calendar year. This information must be provided to the Governor, Senate, and House of Representatives, and made available on the website of the Attorney General's Office.

Information Disclosure.

Information regarding hate crimes or bias incidents that reveals the personal identifying information of any individual must be excluded from Attorney General reports and is exempt from public inspection, copying, and disclosure under the Public Records Act.

Law Enforcement.

Whenever a law enforcement agency receives a report of a hate crime or bias incident, it must provide the phone number and website address of the hotline to the targeted or affected person.

Whenever a person reports a hate crime to the hotline, the hotline must ask whether the person reported the hate crime or bias incident to law enforcement. If the person targeted or affected by the hate crime or bias incident consents to sharing personal identifying information with the primary local law enforcement agency, the hotline must promptly share that person's name, address, and contact information with the law enforcement agency. If the person consents to share some but not all personal identifying information, the hotline must share only the information the person has consented to share.

Definitions.

"Bias incident" means a person's hostile expression of animus toward another person, relating to actual or perceived characteristics identified by specified statutes, of which criminal investigation or prosecution is impossible or inappropriate. "Bias incident" does not include any incident in which probable cause of the commission of a crime is established by the investigating law enforcement officer, and does not include expressions of opposition or support for the actions or policies of a foreign or domestic government protected under free speech. Characteristics identified by specified statutes include: ancestry; citizenship or immigration status; color; creed; gender; gender expression or identity; honorably discharged veteran or military status; mental, physical, or sensory disability; national origin; race; religion; sex; sexual orientation; or use of a trained dog guide or service animal by a person with a disability.

"Hate crime" means the commission, attempted commission, or alleged commission of an offense described in the section of state law governing hate crime offenses.

Appropriation: None.

Fiscal Note: Available.

Effective Date: The bill takes effect on January 1, 2025. However, the bill is null and void unless funded in the budget.

Staff Summary of Public Testimony:

(In support) There is a need to address the rising numbers of hate crimes throughout Washington and the country. Federal Bureau of Investigation statistics show concerning trends and increasing incidents. Washington continues to be ranked among the top states with hate crime incidents. A horrific incident occurred in Seattle last year and many religious institutions have been targeted in recent years. A synagogue was recently tagged with hateful graffiti and now has armed guards and barricades. Hundreds of hate crimes occurred in recent years targeting individuals and communities. Some incidents do not rise to the level of a crime, but nonetheless affect communities.

Prior to 2019, Washington had no hate crime law; only the crime of malicious harassment. As part of the legislation reforming the state's laws, the Attorney General was asked to convene a task force to develop further recommendations to address hate crimes. The resulting report indicated some individuals may not be reporting hate crimes because of issues with data, mistrust, and fear. This bill provides a contact point for people who are targeted by hate crimes. The hotline will be staffed by victim advocates and allow victims to receive culturally competent care and law enforcement support if desired.

This bill is modeled on Oregon law, which provides a successful model. The hotline program is working well in Oregon.

The bill proposes a centralized system for reporting and tracking hate crimes, and will collect data, highlight trends, and facilitate pattern recognition and understanding. This will help the state understand the scale and nature of the problem.

Work has been done to make this a consensus bill. The fiscal note estimates have been lowered.

This bill is supported by a diverse collation of communities and will send a message that all belong.

(Opposed) This bill will create a reporting system that will chill protected speech. The bill covers bias incidents, which include expression and not conduct or crimes. Reporting teams will be empowered to forward complaints to law enforcement. Similar bias response teams on college campuses have been challenged because they chill protected speech. The bill contains no measures to limit law enforcement's use of reports and there is a risk unpopular speakers will be singled out for identification and investigation. There is no penalty for malicious reporting and the hotline may be weaponized against targets.

This law will criminalize hate speech. It is not illegal to say hateful things about one's neighbor. This law teaches children that disagreement is an actionable offense. Liberty requires room for offensive expressions.

This bill inserts government into the role of creating surveillance and reporting systems to monitor the speech of private citizens. This program will increase mistrust and fear,

encourage judgment of others, and create hostile environments in workplaces. This bill shows lawmakers intend to divide us, work against citizen trust and goodwill, and create suspicion and hostility. In the city of Edmonds, a hate crime reporting program was so divisive and controversial the city mayor lost their position.

The bill contains no provisions to ensure the Attorney General treats all reports equally. Reports of hate crimes or bias incidents that target traditional people may be screened out.

Persons Testifying: (In support) Senator Javier Valdez, prime sponsor; Miri Cypers, Anti-Defamation League; Kendall Kosai, OCA-Asian American Pacific Advocates; and Kristin Ang, Faith Action Network.

(Opposed) John Coleman, Foundation for Individual Rights and Expression; Liv Finne, Washington Policy Center; and Teo Morca.

Persons Signed In To Testify But Not Testifying: Lydia Faitalia and Lalita Uppala, Washington State Commission on Asian Pacific American Affairs; Gabriel Neuman, Greater Seattle Business Association; Dean Lynch, Human Rights Spokane; Gail Coskey; Jason Cummings, Snohomish County; Nina Martinez, Latino Civic Alliance; Julie Barrett, Conservative Ladies of Washington; Sharon Damoff; Marvin Treadwell; and Jeannette Mcchesney.