

REVENUE: No revenue impact

FISCAL: Minimal fiscal impact, no statement issued

Action: Do Pass
Vote: 3 - 2 - 0
Yeas: Prozanski, Bonamici, Dingfelder
Nays: Kruse, Whitsett
Exc.:
Prepared By: Aaron Knott, Counsel
Meeting Dates: 2/8, 2/22

WHAT THE MEASURE DOES: Modifies the crimes of intimidation in the first and second degree to include offenses committed because of the offender’s perception of a victim’s disability. Disability would be included as a protected category alongside race, color, religion, sexual orientation and national origin.

ISSUES DISCUSSED:

- Definition of disability to be used
- Rate at which the disabled are more likely to be the victims of crime
- Whether the term “perception of disability” is constitutional
- Whether the term “perception of disability” is likely to create problems of proof

EFFECT OF COMMITTEE AMENDMENT: No amendment.

BACKGROUND: In the United States, federal prosecution is possible for crimes committed on the basis of a person's race, religion, or national origin when engaging in a federally protected activity. In 2009, the Matthew Shepard Act added perceived gender, gender identity, sexual orientation, and disability to the federal definition. At least 31 states have some form of legislation regulating crimes against people with disabilities.

Current ORS 166.155 states that a person commits the crime of intimidation if the person tampers with property, intentionally subjects another to offensive contact or threatens the infliction of serious physical injury or damage to property based on the person’s perception of race, color, religion, sexual orientation, disability or national origin of another. This constitutes intimidation in the second degree, a Class A misdemeanor.

Current ORS 166.165 states that a person commits the crime of intimidation in the first degree, a Class C felony, if in concert with one or more other persons, they intentionally, knowingly or recklessly cause injury to another, negligently cause physical injury to another with a deadly weapon, intentionally, knowingly or recklessly place another in fear of imminent physical injury or commit any of the acts criminalized by ORS 166.165 while working in concert with another person.

The statutory definition of “disabled person” is contained in ORS 174.107. This definition, which pertains to all Oregon statutes not otherwise defined, defines a disabled person as having any mental or physical impairment which substantially limits one or more major life activities, has a record of such impairment, or is regarded as having such impairment.