

SB 356 A STAFF MEASURE SUMMARY

Carrier: Sen. Frederick, Sen. Manning Jr

Senate Committee On Judiciary

Action Date: 04/13/17
Action: Do pass with amendments. (Printed A-Eng.)
Vote: 3-2-0-0
Yeas: 3 - Dembrow, Manning Jr, Prozanski
Nays: 2 - Linthicum, Thatcher
Fiscal: Has minimal fiscal impact
Revenue: No revenue impact
Prepared By: Whitney Perez, Counsel

WHAT THE MEASURE DOES:

Renames intimidation crimes as bias crimes. Adds gender and ethnicity to list of prohibited motivators for these acts. Adds assault in the fourth degree when committed alone and motivated by specified characteristics to offense of Bias Crime in the Second Degree. Permits Attorney General to bring civil action based on these offenses. Specifies available remedies court may order in these proceedings. Imposes a one year limitation period on private causes of action based on these offenses. Subjects these offenses to civil forfeiture. Makes several conforming amendments. Declares emergency, effective on passage.

ISSUES DISCUSSED:

- How to determine a person's motivation for crime
- Past incidents in Oregon and the nation
- Need for statistical analysis of these offenses

EFFECT OF AMENDMENT:

Provides exemption from bias crime if charged with domestic violence offense. Adds acts constituting assault in the fourth degree to the second degree bias crime, rather than the first degree bias crime as under the original bill. Adds ten day mandatory minimum jail sentence upon conviction of Bias in the Second Degree.

BACKGROUND:

A person commits Intimidation in the Second Degree when he or she, because of the victim's race, color, religion, sexual orientation, disability or national origin, (1) tampers or interferes with property with no right to do so and with intent to cause substantial inconvenience to the victim; (2) subjects the victim to offensive physical contact; or (3) intentionally subjects the victim to alarm by threatening to inflict serious physical injury on or commit a felony affecting the victim or a member of the victim's family or to cause substantial damage to the property of the victim or member of the victim's family. Intimidation in the Second Degree is a Class A misdemeanor. Intimidation in the First Degree is committed when two or more persons, because of their perception of the victim's race, color, religion, sexual orientation, disability or national origin, (1) commit the second degree crime, (2) commit Assault in the Fourth Degree, or (3) intentionally place a person in fear of imminent serious injury. Intimidation in the First Degree is a Class C felony.

Senate Bill 356-A adds gender and ethnicity to the list of prohibited motivators for these crimes and renames these crimes as bias crimes. It includes within the second degree crimes acts constituting Assault in the Fourth Degree

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when a person is acting alone. It requires a ten day mandatory jail sentence for the second degree crime. SB 356-A prohibits charging someone with a domestic violence crime and bias crime for the same act. It also adds these offenses to the list of crimes that are subject to civil forfeiture provisions.

Current law, allows a district attorney to bring a civil claim for relief when there is reasonable cause to believe that a person or group has committed one of these crimes. SB 356-A also allows the Attorney General to make these civil claims for relief. It specifies what types of remedies the court may order in these actions, such as granting temporary restraining orders. Existing law authorizes a private cause of action for any person injured by one of these offenses. SB 356-A adds a one year limitation period for these civil actions. This limitation period is tolled during the time the Attorney General or district attorney is involved in pending civil litigation for the same act(s).

Currently, Oregon law requires law enforcement agencies to report to the Department of State Police statistics of crimes motivated by several things, such as political affiliation or marital status. SB 356-A adds to these factors crimes motivated by ethnicity or gender. Finally, SB 356-A makes several conforming amendments.