

SB 356 -1, -2 STAFF MEASURE SUMMARY

Senate Committee On Judiciary

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Meeting Dates: 3/15, 4/12

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 First 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. Requires law enforcement agencies to report statistics on these crimes to Department of Justice. Subjects these offenses to civil forfeiture. Makes several conforming amendments. Declares emergency, effective on passage.

ISSUES DISCUSSED:

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

EFFECT OF AMENDMENT:

-1 Provides exemption for domestic violence offenses. Reduces acts constituting assault in the fourth degree when committed by single person to Class A misdemeanor.

REVENUE: No revenue impact

FISCAL: May have fiscal impact, but no statement yet issued

-2 Incorporates the -1 amendment. Adds ten days mandatory minimum jail upon conviction of Bias in the Second Degree.

REVENUE: No revenue impact

FISCAL: May have fiscal impact, but no statement yet issued

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, does one of the following: tampers or interferes with the victim's property with no right to do so and with intent to cause substantial inconvenience to the victim; subjects the victim to offensive physical contact; or intentionally subjects the victim to alarm by threatening to inflict serious physical injury, to 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 an A misdemeanor. Intimidation in the First Degree is committed when a person commits Intimidation in the Second Degree while acting with one or more other persons. It is also committed when two or more persons commit Assault in the Fourth Degree because of their perception of the victim's race, color, religion, sexual orientation, disability or national origin.

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Intimidation in the First Degree is a C felony. Senate Bill 356 adds gender and ethnicity to the list of characteristics included within these intimidation crimes. It includes within Intimidation in the First Degree acts constituting Assault in the Fourth Degree when a person is acting alone. It also renames these offenses as bias crimes.

Current law, allows a district attorney to bring a civil claim for relief when the district attorney has reasonable cause to believe that a person or group is committing Intimidation in the First or Second Degree. SB 356 allows the Attorney General to also make these civil claims for relief. It also specifies what types of remedy the court may take in these actions, such as granting temporary restraining orders. SB 356 also amends the provision in Oregon law allowing for a private cause of action for any person injured by these offenses. SB 356 adds a one year limitation period to 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). SB 356 also adds these offenses to the list of crimes that are subject to civil forfeiture provisions.

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 adds to these factors crimes motivated by ethnicity or gender. It also requires law enforcement to make these report to the Department of Justice, in addition to the Department of State Police. Finally, SB 356 makes several conforming amendments.