

CORRECTED
SENATE COMMITTEE OF REFERENCE REPORT

Chairman of Committee

April 27, 2005
Date

Committee on Judiciary.

After consideration on the merits, the Committee recommends the following:

HB05-1014 be amended as follows, and as so amended, be referred to the Committee on Appropriations with favorable recommendation:

1 Amend reengrossed bill, page 4, after line 9, insert the following:

2 "SECTION 5. 18-9-121, Colorado Revised Statutes, is amended
3 to read:

4 **18-9-121. Bias-motivated crimes.** (1) The general assembly
5 hereby finds and declares that it is the right of every person, regardless
6 of race, color, ancestry, religion, ~~or~~ national origin, PHYSICAL OR MENTAL
7 DISABILITY, OR SEXUAL ORIENTATION, to be secure and protected from
8 fear, intimidation, harassment, and physical harm caused by the activities
9 of individuals and groups. The general assembly further finds that the
10 advocacy of unlawful acts against persons or groups because of a person's
11 or group's race, color, ancestry, religion, ~~or~~ national origin, PHYSICAL OR
12 MENTAL DISABILITY, OR SEXUAL ORIENTATION, for the purpose of inciting
13 and provoking bodily injury or damage to property, poses a threat to
14 public order and safety and should be subject to criminal sanctions.

15 (2) A person commits ~~ethnic intimidation~~ A BIAS-MOTIVATED
16 CRIME if, with the intent to intimidate or harass another person because
17 of that person's actual or perceived race, color, religion, ancestry, ~~or~~
18 national origin, PHYSICAL OR MENTAL DISABILITY, OR SEXUAL
19 ORIENTATION, he or she:

20 (a) Knowingly causes bodily injury to another person; or

1 (b) By words or conduct, knowingly places another person in fear
2 of imminent lawless action directed at that person or that person's
3 property and such words or conduct are likely to produce bodily injury
4 to that person or damage to that person's property; or

5 (c) Knowingly causes damage to or destruction of the property of
6 another person.

7 (3) ~~Ethnic intimidation~~ COMMISSION OF A BIAS-MOTIVATED CRIME
8 as described in paragraph (b) or (c) of subsection (2) of this section is a
9 class 1 misdemeanor. ~~Ethnic intimidation~~ COMMISSION OF A
10 BIAS-MOTIVATED CRIME as described in paragraph (a) of subsection (2)
11 of this section is a class 5 felony; except that ~~ethnic intimidation~~
12 COMMISSION OF A BIAS-MOTIVATED CRIME as described in said paragraph
13 (a) is a class 4 felony if the offender is physically aided or abetted by one
14 or more other persons during the commission of the offense.

15 (3.5) (a) IN DETERMINING THE SENTENCE FOR A FIRST-TIME
16 OFFENDER CONVICTED OF A BIAS-MOTIVATED CRIME, THE COURT SHALL
17 CONSIDER THE FOLLOWING ALTERNATIVES, WHICH SHALL BE IN ADDITION
18 TO AND NOT IN LIEU OF ANY OTHER SENTENCE RECEIVED BY THE
19 OFFENDER:

20 (I) SENTENCING THE OFFENDER TO PAY FOR AND COMPLETE A
21 PERIOD OF USEFUL COMMUNITY SERVICE INTENDED TO BENEFIT THE PUBLIC
22 AND ENHANCE THE OFFENDER'S UNDERSTANDING OF THE IMPACT OF THE
23 OFFENSE UPON THE VICTIM;

24 (II) AT THE REQUEST OF THE VICTIM, REFERRING THE CASE TO A
25 RESTORATIVE JUSTICE OR OTHER SUITABLE ALTERNATIVE DISPUTE
26 RESOLUTION PROGRAM ESTABLISHED IN THE JUDICIAL DISTRICT PURSUANT
27 TO SECTION 13-22-313, C.R.S.

28 (b) IN CONSIDERING WHETHER TO IMPOSE THE ALTERNATIVES
29 DESCRIBED IN PARAGRAPH (a) OF THIS SUBSECTION (3.5), THE COURT
30 SHALL CONSIDER THE CRIMINAL HISTORY OF THE OFFENDER, THE IMPACT
31 OF THE OFFENSE ON THE VICTIM, THE AVAILABILITY OF THE ALTERNATIVES,
32 AND THE NATURE OF THE OFFENSE. NOTHING IN THIS SECTION SHALL BE
33 CONSTRUED TO REQUIRE THE COURT TO IMPOSE THE ALTERNATIVES
34 SPECIFIED IN PARAGRAPH (a) OF THIS SUBSECTION (3.5).

35 (4) The criminal penalty provided in this section for ~~ethnic~~
36 ~~intimidation~~ COMMISSION OF A BIAS-MOTIVATED CRIME does not preclude

1 the victim of such action from seeking any other remedies otherwise
2 available under law.

3 (5) FOR PURPOSES OF THIS SECTION:

4 (a) "PHYSICAL OR MENTAL DISABILITY" REFERS TO A DISABILITY AS
5 USED IN THE DEFINITION OF THE TERM "PERSON WITH A DISABILITY" IN
6 SECTION 18-6.5-102 (3).

7 (b) "SEXUAL ORIENTATION" MEANS A PERSON'S ACTUAL OR
8 PERCEIVED ORIENTATION TOWARD HETEROSEXUALITY, HOMOSEXUALITY,
9 BISEXUALITY, OR TRANSGENDER STATUS.

10 **SECTION 6.** 24-4.1-302 (1) (cc.3), Colorado Revised Statutes,
11 is amended to read:

12 **24-4.1-302. Definitions.** As used in this part 3, and for no other
13 purpose, including the expansion of the rights of any defendant:

14 (1) "Crime" means any of the following offenses as defined by the
15 statutes of the state of Colorado, whether committed by an adult or a
16 juvenile:

17 (cc.3) ~~Ethnic intimidation~~ A BIAS-MOTIVATED CRIME, in violation
18 of section 18-9-121, C.R.S.;

19 **SECTION 7. Exception to the requirements of section 2-2-703,**
20 **Colorado Revised Statutes.** The general assembly hereby finds that the
21 amendments to section 18-9-121, Colorado Revised Statutes, enacted in
22 this act will result in the minor fiscal impact of one additional offender
23 being convicted and sentenced to the department of corrections during the
24 five years following passage of this act. Because of the relative
25 insignificance of this degree of fiscal impact, these amendments are an
26 exception to the five-year appropriation requirements specified in section
27 2-2-703, Colorado Revised Statutes.

28 **SECTION 8. No appropriation.** The general assembly has
29 determined that this act can be implemented within existing
30 appropriations, and therefore no separate appropriation of state moneys
31 is necessary to carry out the purposes of this act."

32 Renumber succeeding sections accordingly.

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