

First Regular Session
Sixty-third General Assembly
STATE OF COLORADO

REENGROSSED

*This Version Includes All Amendments
Adopted in the House of Introduction*

LLS NO. 01-0120.01 Beth Braby

SENATE BILL 01-075

SENATE SPONSORSHIP

Tate

HOUSE SPONSORSHIP

Larson and Mace

Senate Committees

Judiciary

Appropriations

House Committees

A BILL FOR AN ACT

101 **CONCERNING EXPANSION OF THE CRIME OF ETHNIC INTIMIDATION,**
102 **AND, IN CONNECTION THEREWITH, CHANGING THE NAME OF THE**
103 **CRIME TO A HATE CRIME.**

Bill Summary

(Note: This summary applies to this bill as introduced and does not necessarily reflect any amendments that may be subsequently adopted.)

Expands the crime of ethnic intimidation to include intimidating a person because of that person's physical or mental disability, age, sexual orientation, or gender identity. Changes the name of the crime of ethnic intimidation to a hate crime.

Makes conforming amendments.

Makes a statutory five-year appropriation.

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.

Capital letters indicate new material to be added to existing statute.

Dashes through the words indicate deletions from existing statute.

SENATE
3rd Reading Unamended
April 17, 2001

SENATE
Amended 2nd Reading
April 12, 2001

1 *Be it enacted by the General Assembly of the State of Colorado:*

2 **SECTION 1.** 18-9-121 (1), the introductory portion to
3 18-9-121 (2), and 18-9-121 (3) and (4), Colorado Revised Statutes, are
4 amended, and the said 18-9-121 is further amended BY THE ADDITION
5 OF A NEW SUBSECTION, to read:

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

18 (2) A person commits ~~ethnic intimidation~~ A HATE CRIME if, with
19 the intent to intimidate or harass another person because of that person's
20 actual or perceived race, color, religion, ancestry, ~~or~~ national origin,
21 PHYSICAL OR MENTAL DISABILITY, AGE, SEXUAL ORIENTATION, OR GENDER
22 IDENTITY, he or she:

23 (3) ~~Ethnic intimidation~~ COMMISSION OF A HATE CRIME as described
24 in paragraph (b) or (c) of subsection (2) of this section is a class 1
25 misdemeanor. ~~Ethnic intimidation~~ COMMISSION OF A HATE CRIME as
26 described in paragraph (a) of subsection (2) of this section is a class 5

1 felony; except that ~~ethnic intimidation~~ COMMISSION OF A HATE CRIME as
2 described in said paragraph (a) is a class 4 felony if the offender is
3 physically aided or abetted by one or more other persons during the
4 commission of the offense.

5 (4) The criminal penalty provided in this section for ~~ethnic~~
6 ~~intimidation~~ COMMISSION OF A HATE CRIME does not preclude the victim
7 of such action from seeking any other remedies otherwise available under
8 law.

9 (5) FOR PURPOSES OF THIS SECTION:

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

13 (b) "SEXUAL ORIENTATION" MEANS A PERSON'S ACTUAL OR
14 PERCEIVED ORIENTATION TOWARD HETEROSEXUALITY, HOMOSEXUALITY,
15 OR BISEXUALITY.

16 (c) "GENDER IDENTITY" MEANS:

17 (I) HAVING A CHANGED GENDER AS A RESULT OF A SEX CHANGE
18 SURGERY; OR

19 (II) MANIFESTING, FOR REASONS OTHER THAN DRESS, AN IDENTITY
20 NOT TRADITIONALLY ASSOCIATED WITH ONE'S BIOLOGICAL MALENESS OR
21 FEMALENESS.

22 **SECTION 2.** 13-21-106.5 (1) and (2), Colorado Revised Statutes,
23 are amended to read:

24 **13-21-106.5. Civil damages for destruction or bodily injury**
25 **caused by a hate crime.** (1) The victim, or a member of the victim's
26 immediate family, is entitled to recover damages from any person,
27 organization, or association who commits or incites others to commit the

1 ~~offense of ethnic intimidation~~ A HATE CRIME as defined DESCRIBED in
2 section 18-9-121 (2), C.R.S. Such person, organization, or association
3 shall be civilly liable to the victim or a member of the victim's immediate
4 family for the actual damages, costs, and expenses incurred in connection
5 with said action. For purposes of this section, "immediate family"
6 includes the victim's spouse and the victim's parent, sibling, or child who
7 is living with the victim.

8 (2) A conviction for ~~criminal ethnic intimidation~~ COMMISSION OF
9 A HATE CRIME pursuant to section 18-9-121, C.R.S., shall not be a
10 condition precedent to maintaining a civil action pursuant to the
11 provisions of this section.

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

14 **24-4.1-302. Definitions.** As used in this part 3, and for no other
15 purpose, including the expansion of the rights of any defendant:

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

19 (cc.3) ~~Ethnic intimidation~~ A HATE CRIME, in violation of section
20 18-9-121, C.R.S.;

21 **SECTION 4. Exception to the requirements of section 2-2-703,**
22 **Colorado Revised Statutes.** The general assembly hereby finds that the
23 amendments to section 18-9-121, Colorado Revised Statutes, enacted in
24 this act will result in the minor fiscal impact of one additional offender
25 being convicted and sentenced to the department of corrections during the
26 five years following passage of this act. Because of the relative
27 insignificance of this degree of fiscal impact, these amendments are an

1 exception to the five-year appropriation requirements specified in section
2 2-2-703, Colorado Revised Statutes.

3 **SECTION 5. No appropriation.** The general assembly has
4 determined that this act can be implemented within existing
5 appropriations, and therefore no separate appropriation of state moneys
6 is necessary to carry out the purposes of this act.

7 _____
8 _____

9 **SECTION 6. Effective date - applicability.** (1) This act shall
10 take effect at 12:01 a.m. on the day following the expiration of the
11 ninety-day period after final adjournment of the general assembly that is
12 allowed for submitting a referendum petition pursuant to article V, section
13 1 (3) of the state constitution; except that, if a referendum petition is filed
14 against this act or an item, section, or part of this act within such period,
15 then the act, item, section, or part, if approved by the people, shall take
16 effect on the date of the official declaration of the vote thereon by
17 proclamation of the governor.

18 (2) The provisions of this act shall apply to offenses committed on
19 or after the applicable effective date of this act.