



House of Representatives

General Assembly

File No. 654

January Session, 2017

Substitute House Bill No. 5743

House of Representatives, April 20, 2017

The Committee on Judiciary reported through REP. TONG of the 147th Dist., Chairperson of the Committee on the part of the House, that the substitute bill ought to pass.

AN ACT CONCERNING HATE CRIMES.

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. Section 46a-58 of the general statutes is repealed and the
2 following is substituted in lieu thereof (*Effective October 1, 2017*):

3 (a) It shall be a discriminatory practice in violation of this section for
4 any person to subject, or cause to be subjected, any other person to the
5 deprivation of any rights, privileges or immunities, secured or
6 protected by the Constitution or laws of this state or of the United
7 States, on account of religion, national origin, alienage, color, race, sex,
8 gender identity or expression, sexual orientation, blindness, mental
9 disability or physical disability.

10 (b) Any person who intentionally desecrates any public property,
11 monument or structure, or any religious object, symbol or house of
12 religious worship, or any cemetery, or any private structure not owned
13 by such person, shall be in violation of subsection (a) of this section.
14 For the purposes of this subsection, "desecrate" means to mar, deface

15 or damage as a demonstration of irreverence or contempt.

16 (c) Any person who places a burning cross or a simulation thereof
17 on any public property, or on any private property without the written
18 consent of the owner, and with intent to intimidate any person or
19 group of persons, shall be in violation of subsection (a) of this section.

20 (d) Any person who places a noose or a simulation thereof on any
21 public property, or on any private property without the written
22 consent of the owner, and with intent to intimidate or harass any other
23 person on account of religion, national origin, alienage, color, race, sex,
24 gender identity or expression, sexual orientation, blindness, mental
25 disability or physical disability, shall be in violation of subsection (a) of
26 this section.

27 (e) [Any] (1) Except as provided in subdivision (2) of this subsection,
28 any person who violates any provision of this section shall be guilty of
29 a class A misdemeanor and shall be fined not less than one thousand
30 dollars, except that if property is damaged as a consequence of such
31 violation in an amount in excess of one thousand dollars, such person
32 shall be guilty of a class D felony and shall be fined not less than one
33 thousand dollars.

34 (2) Any person who violates the provisions of this section by
35 intentionally desecrating a house of religious worship (A) shall be
36 guilty of a class D felony and shall be fined not less than one thousand
37 dollars if property is damaged as a consequence of such violation in an
38 amount up to and including ten thousand dollars, and (B) shall be
39 guilty of a class C felony and shall be fined not less than three
40 thousand dollars if the property damaged as a consequence of such
41 violation is in an amount in excess of ten thousand dollars.

42 (3) The minimum amount of any fine imposed by the provisions of
43 this section may not be remitted or reduced by the court unless the
44 court states on the record its reasons for remitting or reducing such
45 fine.

46 (4) The court may order restitution for any victim of a violation of
47 this section pursuant to subsection (c) of section 53a-28.

48 Sec. 2. Subsection (a) of section 53a-30 of the general statutes is
49 repealed and the following is substituted in lieu thereof (*Effective*
50 *October 1, 2017*):

51 (a) When imposing sentence of probation or conditional discharge,
52 the court may, as a condition of the sentence, order that the defendant:
53 (1) Work faithfully at a suitable employment or faithfully pursue a
54 course of study or of vocational training that will equip the defendant
55 for suitable employment; (2) undergo medical or psychiatric treatment
56 and remain in a specified institution, when required for that purpose;
57 (3) support the defendant's dependents and meet other family
58 obligations; (4) make restitution of the fruits of the defendant's offense
59 or make restitution, in an amount the defendant can afford to pay or
60 provide in a suitable manner, for the loss or damage caused thereby
61 and the court may fix the amount thereof and the manner of
62 performance; (5) if a minor, (A) reside with the minor's parents or in a
63 suitable foster home, (B) attend school, and (C) contribute to the
64 minor's own support in any home or foster home; (6) post a bond or
65 other security for the performance of any or all conditions imposed; (7)
66 refrain from violating any criminal law of the United States, this state
67 or any other state; (8) if convicted of a misdemeanor or a felony, other
68 than a capital felony under the provisions of section 53a-54b in effect
69 prior to April 25, 2012, a class A felony or a violation of section 21a-
70 278, 21a-278a, 53a-55, 53a-56, 53a-56b, 53a-57, 53a-58 or 53a-70b or any
71 offense for which there is a mandatory minimum sentence which may
72 not be suspended or reduced by the court, and any sentence of
73 imprisonment is suspended, participate in an alternate incarceration
74 program; (9) reside in a residential community center or halfway
75 house approved by the Commissioner of Correction, and contribute to
76 the cost incident to such residence; (10) participate in a program of
77 community service labor in accordance with section 53a-39c; (11)
78 participate in a program of community service in accordance with
79 section 51-181c; (12) if convicted of a violation of subdivision (2) of

80 subsection (a) of section 53-21, section 53a-70, 53a-70a, 53a-70b, 53a-71,
81 53a-72a or 53a-72b, undergo specialized sexual offender treatment; (13)
82 if convicted of a criminal offense against a victim who is a minor, a
83 nonviolent sexual offense or a sexually violent offense, as defined in
84 section 54-250, or of a felony that the court finds was committed for a
85 sexual purpose, as provided in section 54-254, register such person's
86 identifying factors, as defined in section 54-250, with the
87 Commissioner of Emergency Services and Public Protection when
88 required pursuant to section 54-251, 54-252 or 54-253, as the case may
89 be; (14) be subject to electronic monitoring, which may include the use
90 of a global positioning system; (15) if convicted of a violation of section
91 46a-58, as amended by this act, 53-37a, 53a-181j, as amended by this
92 act, 53a-181k, as amended by this act, or 53a-181l, as amended by this
93 act, participate in an anti-bias [crime education program] or diversity
94 awareness program or participate in a program of community service
95 designed to remedy damage caused by the commission of a bias crime
96 or otherwise related to the defendant's violation; (16) if convicted of a
97 violation of section 53-247, undergo psychiatric or psychological
98 counseling or participate in an animal cruelty prevention and
99 education program provided such a program exists and is available to
100 the defendant; or (17) satisfy any other conditions reasonably related to
101 the defendant's rehabilitation. The court shall cause a copy of any such
102 order to be delivered to the defendant and to the probation officer, if
103 any.

104 Sec. 3. Section 53a-61aa of the general statutes is repealed and the
105 following is substituted in lieu thereof (*Effective October 1, 2017*):

106 (a) A person is guilty of threatening in the first degree when such
107 person (1) (A) threatens to commit any crime involving the use of a
108 hazardous substance with the intent to terrorize another person, to
109 cause evacuation of a building, place of assembly or facility of public
110 transportation or otherwise to cause serious public inconvenience, or
111 (B) threatens to commit such crime in reckless disregard of the risk of
112 causing such terror, evacuation or inconvenience; (2) (A) threatens to
113 commit any crime of violence with the intent to cause evacuation of a

114 building, place of assembly or facility of public transportation or
115 otherwise to cause serious public inconvenience, or (B) threatens to
116 commit such crime in reckless disregard of the risk of causing such
117 evacuation or inconvenience; (3) commits threatening in the second
118 degree as provided in section 53a-62, as amended by this act, and in
119 the commission of such offense such person uses or is armed with and
120 threatens the use of or displays or represents by such person's words
121 or conduct that such person possesses a pistol, revolver, shotgun, rifle,
122 machine gun or other firearm; or (4) violates subdivision (1) or (2) of
123 this subsection with the intent to cause an evacuation of a building or
124 the grounds of a (A) house of religious worship, (B) religiously-
125 affiliated community center, (C) public or nonpublic preschool, school
126 or institution of higher education, or (D) day care center, as defined in
127 section 19a-87g, during operational, preschool, school or instructional
128 hours or when a building or the grounds of such house of worship,
129 community center, preschool, school, [or] institution or day care center
130 are being used for the provision of religious or community services, or
131 house of worship, community center, preschool, school, [or institution-
132 sponsored] institution or day care center-sponsored activities. No
133 person shall be found guilty of threatening in the first degree under
134 subdivision (3) of this subsection and threatening in the second degree
135 upon the same transaction but such person may be charged and
136 prosecuted for both such offenses upon the same information.

137 (b) For the purposes of this section, "hazardous substance" means
138 any physical, chemical, biological or radiological substance or matter
139 which, because of its quantity, concentration or physical, chemical or
140 infectious characteristics, may cause or significantly contribute to an
141 increase in mortality or an increase in serious irreversible or
142 incapacitating reversible illness, or pose a substantial present or
143 potential hazard to human health.

144 (c) Threatening in the first degree is a class D felony, except that a
145 violation of subdivision (4) of subsection (a) of this section is a class C
146 felony.

147 Sec. 4. Section 53a-62 of the general statutes is repealed and the
148 following is substituted in lieu thereof (*Effective October 1, 2017*):

149 (a) A person is guilty of threatening in the second degree when: (1)
150 By physical threat, such person intentionally places or attempts to
151 place another person in fear of imminent serious physical injury, (2)
152 (A) such person threatens to commit any crime of violence with the
153 intent to terrorize another person, or (B) such person threatens to
154 commit such crime of violence in reckless disregard of the risk of
155 causing such terror, or (3) violates subdivision (1) or (2) of this
156 subsection and the person threatened is in a building or on the
157 grounds of a (A) house of religious worship, (B) religiously-affiliated
158 community center, (C) public or nonpublic preschool, school or
159 institution of higher education, or (D) day care center, as defined in
160 section 19a-87g, during operational, preschool, school or instructional
161 hours or when a building or the grounds of such house of worship,
162 community center, preschool, school, [or] institution or day care center
163 are being used for the provision of religious or community services, or
164 house of worship, community center, preschool, school, [or institution-
165 sponsored] institution or day care center-sponsored activities.

166 (b) Threatening in the second degree is a class A misdemeanor,
167 except that a violation of subdivision (3) of subsection (a) of this
168 section is a class D felony.

169 Sec. 5. Section 53a-181j of the general statutes is repealed and the
170 following is substituted in lieu thereof (*Effective October 1, 2017*):

171 (a) A person is guilty of intimidation based on bigotry or bias in the
172 first degree when such person maliciously, and with specific intent to
173 intimidate or harass another person because of the actual or perceived
174 race, religion, ethnicity, disability, sex, sexual orientation or gender
175 identity or expression of such other person, causes [serious] physical
176 injury to such other person or to a third person.

177 (b) Intimidation based on bigotry or bias in the first degree is a class
178 C felony, for which three thousand dollars of the fine imposed may not

179 be remitted or reduced by the court unless the court states on the
180 record its reasons for remitting or reducing such fine.

181 Sec. 6. Section 53a-181k of the general statutes is repealed and the
182 following is substituted in lieu thereof (*Effective October 1, 2017*):

183 (a) A person is guilty of intimidation based on bigotry or bias in the
184 second degree when such person maliciously, and with specific intent
185 to intimidate or harass another person or group of persons because of
186 the actual or perceived race, religion, ethnicity, disability, sex, sexual
187 orientation or gender identity or expression of such other person or
188 group of persons, does any of the following: (1) Causes physical
189 contact with such other person or group of persons, (2) damages,
190 destroys or defaces any real or personal property of such other person
191 or group of persons, or (3) threatens, by word or act, to do an act
192 described in subdivision (1) or (2) of this subsection, if there is
193 reasonable cause to believe that an act described in subdivision (1) or
194 (2) of this subsection will occur.

195 (b) Intimidation based on bigotry or bias in the second degree is a
196 class D felony, for which one thousand dollars of the fine imposed may
197 not be remitted or reduced by the court unless the court states on the
198 record its reasons for remitting or reducing such fine.

199 Sec. 7. Section 53a-181l of the general statutes is repealed and the
200 following is substituted in lieu thereof (*Effective October 1, 2017*):

201 (a) A person is guilty of intimidation based on bigotry or bias in the
202 third degree when such person, with specific intent to intimidate or
203 harass another person or group of persons because of the actual or
204 perceived race, religion, ethnicity, disability, sex, sexual orientation or
205 gender identity or expression of such other person or persons: (1)
206 Damages, destroys or defaces any real or personal property, or (2)
207 threatens, by word or act, to do an act described in subdivision (1) of
208 this subsection or advocates or urges another person to do an act
209 described in subdivision (1) of this subsection, if there is reasonable
210 cause to believe that an act described in said subdivision will occur.

211 (b) Intimidation based on bigotry or bias in the third degree is a
212 class [A misdemeanor] E felony, for which one thousand dollars of the
213 fine imposed may not be remitted or reduced by the court unless the
214 court states on the record its reasons for remitting or reducing such
215 fine.

216 Sec. 8. (NEW) (*Effective October 1, 2017*) (a) There shall be a State-
217 Wide Hate Crimes Advisory Council within the Office of the Chief
218 State's Attorney, for administrative purposes only. Members of the
219 council shall include (1) the following, or their designees: The Chief
220 State's Attorney; the Chief Public Defender; the Commissioner of
221 Emergency Services and Public Protection; the president of the
222 Connecticut Bar Association; the president of the George W. Crawford
223 Black Bar Association; the president of the South Asian Bar Association
224 of Connecticut; the president of the Connecticut Asian Pacific
225 American Bar Association; the president of the Connecticut Hispanic
226 Bar Association; and the president of the Connecticut Police Chiefs
227 Association; and (2) no more than thirty appointed by the Governor
228 who are representatives of organizations committed to decreasing hate
229 crimes, improving diversity awareness or representing the interests of
230 groups within the state protected by sections 53a-181j to 53a-181l,
231 inclusive, of the general statutes, as amended by this act.

232 (b) The Governor shall appoint two chairpersons of such council
233 from among the members of the council.

234 (c) The council shall meet at least semiannually to encourage and
235 coordinate programs to increase community awareness and reporting
236 of hate crimes and to combat such crimes and make recommendations
237 for any legislation concerning such crimes, including, but not limited
238 to, recommendations concerning restitution for victims of such crimes,
239 community service designed to remedy damage caused by any such
240 crime or that is related to the commission of any such crime and
241 additional alternative sentencing programs for first time offenders and
242 juvenile offenders.

243 (d) Not later than October 1, 2018, and annually thereafter, the

244 council shall report, in accordance with the provisions of section 11-4a
245 of the general statutes, its recommendations to the joint standing
246 committees of the General Assembly having cognizance of matters
247 relating to the judiciary and public safety.

248 Sec. 9. (NEW) (*Effective October 1, 2017*) (a) The Commissioner of
249 Emergency Services and Public Protection shall publicize and provide
250 for the operation of a toll-free hotline that is able to receive and
251 respond to text messages and telephonic calls. The hotline staff shall
252 provide and respond to requests for information and resources from
253 persons reporting crimes involving incidents of harassment or
254 intimidation of a person or persons because of the actual or perceived
255 race, religion, ethnicity, disability, sex, sexual orientation or gender
256 identity or expression of such other person or persons. The hotline
257 staff shall direct a person to the proper law enforcement agency, if
258 appropriate, and support services available locally to such person in
259 the case of any such crime or incident. The commissioner shall ensure
260 that staff who operate the hotline are trained to be knowledgeable
261 about federal, state and municipal hate crimes laws and law
262 enforcement resources and support services applicable to the needs of
263 such person reporting or impacted by any such crime or incident and
264 available locally to address such needs. The commissioner shall ensure
265 that the hotline is accessible to persons with limited English
266 proficiency and persons with disabilities and that any personally
267 identifiable information that a person provides to hotline staff is not
268 disclosed to any other person, agency or entity, without such person's
269 consent.

270 (b) Any fine collected pursuant to section 46a-58 of the general
271 statutes, as amended by this act, and sections 53a-181j to 53a-181l,
272 inclusive, of the general statutes, as amended by this act, shall be used
273 for the purposes of publicizing and operating the hotline established
274 pursuant to subsection (a) of this section.

275 Sec. 10. Section 54-85b of the general statutes is repealed and the
276 following is substituted in lieu thereof (*Effective October 1, 2017*):

277 (a) An employer shall not deprive an employee of employment,
278 penalize or threaten or otherwise coerce an employee with respect to
279 employment, because (1) the employee obeys a legal subpoena to
280 appear before any court of this state as a witness in any criminal
281 proceeding, (2) the employee attends a court proceeding or
282 participates in a police investigation related to a criminal case in which
283 the employee is a crime victim, or attends or participates in a court
284 proceeding related to a civil case in which the employee is a victim of
285 family violence, as defined in section 46b-38a, (3) a restraining order
286 has been issued on the employee's behalf pursuant to section 46b-15,
287 (4) a protective order has been issued on the employee's behalf by a
288 court of this state or by a court of another state, provided if issued by a
289 court of another state, the protective order shall be registered in this
290 state pursuant to section 46b-15a, [or] (5) the employee is a victim of
291 family violence, as defined in section 46b-38a, or (6) the employee is
292 absent for up to sixteen hours in any calendar year because the day
293 care, as defined in section 19a-87g, or school of such employee's minor
294 child is closed or evacuated due to a threat of violence against the
295 building or premises of such day care or school or the staff of or
296 children who attend such day care or school. For the purposes of this
297 section, "crime victim" means an employee who suffers direct or
298 threatened physical, emotional or financial harm as a result of a crime
299 or an employee who is an immediate family member or guardian of
300 (A) a person who suffers such harm and is a minor, physically
301 disabled, as defined in section 46a-51, or incompetent, or (B) a
302 homicide victim.

303 (b) Any employer who violates subdivision (1) of subsection (a) of
304 this section shall be guilty of criminal contempt and shall be fined not
305 more than five hundred dollars or imprisoned not more than thirty
306 days, or both.

307 (c) If an employer discharges, penalizes or threatens or otherwise
308 coerces an employee in violation of subsection (a) of this section, the
309 employee, not later than one hundred eighty days from the occurrence
310 of such action, may bring a civil action for damages and for an order

311 requiring the employee's reinstatement or otherwise rescinding such
312 action. If the employee prevails, the employee shall be allowed a
313 reasonable attorney's fee to be fixed by the court.

314 Sec. 11. Section 51-279d of the general statutes is repealed. (*Effective*
315 *October 1, 2017*)

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>October 1, 2017</i>	46a-58
Sec. 2	<i>October 1, 2017</i>	53a-30(a)
Sec. 3	<i>October 1, 2017</i>	53a-61aa
Sec. 4	<i>October 1, 2017</i>	53a-62
Sec. 5	<i>October 1, 2017</i>	53a-181j
Sec. 6	<i>October 1, 2017</i>	53a-181k
Sec. 7	<i>October 1, 2017</i>	53a-181l
Sec. 8	<i>October 1, 2017</i>	New section
Sec. 9	<i>October 1, 2017</i>	New section
Sec. 10	<i>October 1, 2017</i>	54-85b
Sec. 11	<i>October 1, 2017</i>	Repealer section

Statement of Legislative Commissioners:

In Section 8, the date for the first annual report was added for clarity.

JUD *Joint Favorable Subst.*

The following Fiscal Impact Statement and Bill Analysis are prepared for the benefit of the members of the General Assembly, solely for purposes of information, summarization and explanation and do not represent the intent of the General Assembly or either chamber thereof for any purpose. In general, fiscal impacts are based upon a variety of informational sources, including the analyst's professional knowledge. Whenever applicable, agency data is consulted as part of the analysis, however final products do not necessarily reflect an assessment from any specific department.

OFA Fiscal Note

State Impact:

Agency Affected	Fund-Effect	FY 18 \$	FY 19 \$
State Comptroller - Fringe Benefits ¹	GF - Cost	Less than 57,000	Less than 57,000
Correction, Dept.; Judicial Dept. (Probation)	GF - Potential Cost	See Below	See Below
Department of Emergency Services and Public Protection	GF - Cost	Less than 175,000	Less than 175,000
Resources of the General Fund	GF - Potential Revenue Gain	See Below	See Below

Note: GF=General Fund

Municipal Impact: None

Explanation

The bill increases the penalty for certain crimes and results in a potential cost for increased incarceration or probation. To the extent that offenders are prosecuted for expanded offenses under this bill, potential costs for incarceration or probation supervision in the community or judicial revenue would result. On average, it costs the state \$7,260 (including benefits) to supervise an inmate in the community as opposed to \$61,320 (including benefits) to incarcerate an offender.

The bill increases the minimum fine for certain crimes and results in a potential revenue gain. However, there have been no fines collected for the crimes specified in the past five years.

¹The fringe benefit costs for most state employees are budgeted centrally in accounts administered by the Comptroller. The estimated active employee fringe benefit cost associated with most personnel changes is 38.08% of payroll in FY 18 and FY 19.

There is a fiscal impact to the Department of Emergency Services and Public Protection (DESPP) resulting from the bill, which requires that the agency establish a hate crimes hotline. To the extent that DESPP will need to hire up to three employees to staff the hotline, which will presumably be open 24 hours a day, at a cost of less than \$175,000 annually for salary and administrative costs. In addition, this will result in a cost of less than \$57,000 annually for fringe benefits.

While the bill calls for the hotline to be funded by revenue from any penalties for crimes outlined in the bill, it is expected such revenue will be minimal, and therefore, insufficient to cover the above costs. There have been no fines collected for the crimes specified in the past five years.

The Out Years

The annualized ongoing fiscal impact identified above would continue into the future subject to inflation and the number of violations.

OLR Bill Analysis**sHB 5743*****AN ACT CONCERNING HATE CRIMES.*****SUMMARY**

This bill makes several changes to the hate crime laws, including enhancing penalties in some cases. Among other things, the bill:

1. imposes minimum fines for certain hate crimes, including deprivation of rights; desecration of property; cross burning; and 1st, 2nd, and 3rd degree intimidation based on bigotry or bias (§§ 1 & 5-7);
2. allows the court to cancel or reduce the minimum fines the bill imposes if the court states on the record its reasons for doing so (§§ 1 & 5-7);
3. enhances the penalty for desecration of a house of religious worship (§ 1);
4. increases the penalty for 1st and 2nd degree threatening when the threat affects a house of worship, religiously-affiliated community center, or day care center (§§ 3 & 4);
5. increases, from a class A misdemeanor to a class E felony, the penalty for 3rd degree intimidation based on bigotry or bias (§§ 5-7);
6. allows the court, as a condition of probation or conditional release, to require hate-crime offenders to participate in certain programs (§ 2);
7. replaces the Hate Crimes Advisory Committee with a new State-Wide Hate Crimes Advisory Council within the Office of the

Chief State's Attorney (§§ 8 & 11);

8. requires the Department of Emergency Services and Public Protection (DESPP) commissioner to establish a toll-free hotline to receive and respond to text messages and telephone calls from people reporting hate crimes (§ 9); and
9. provides employment protection for certain employees who are absent from work up to 16 hours per year due to closure of a day care center or school due to hate crime threat (§ 10).

EFFECTIVE DATE: October 1, 2017

§ 1 — DEPRIVATION OF RIGHTS AND DESECRATION OF PROPERTY

The bill makes various changes to the elements of certain hate crimes that deprive someone of their rights, as well as enhances penalties for deprivation of rights and desecration of property.

Deprivation of Rights

By law, it is a crime to deprive someone of any legally-guaranteed right because of his or her religion, national origin, alienage, color, race, sex, gender identity or expression, sexual orientation, blindness, or mental or physical disability. Existing law specifies that placement of a burning cross or a noose on another person's property are two types of this crime.

Under current law it is a crime to place a burning cross or simulation of one on public property, or on private property without the written consent of the owner. The bill makes this a crime only if the person acted with the intent to intimidate someone or a group of people.

It is also a crime under current law to place a noose or simulation of one on public property, or on private property without the written consent of the owner, and with the intent to harass someone because of his or her religion, national origin, alienage, color, race, sex, sexual orientation, blindness, or physical disability. The bill adds "gender

identity or expression” and “mental disability” to the list of protected classes.

Desecration of Property

By law, unchanged by the bill, it is also a hate crime to intentionally desecrate any public property, monument, or structure; religious object, symbol, or house of worship; cemetery; or private structure.

Enhanced Penalties

Under current law, the crimes described above are class A misdemeanors, but class D felonies if there is more than \$1,000 in property damage. The bill enhances this penalty by imposing a minimum fine of \$1,000 whether the crime is a misdemeanor or a felony.

By law, a class A misdemeanor is punishable by up to one year imprisonment, a fine up to \$2,000, or both; a class D felony is punishable by up to five years imprisonment, a fine up to \$5,000, or both.

The bill further enhances the penalty for these crimes if the offender intentionally desecrates a house of religious worship (see Table 1 below).

Table 1: Intentional Desecration of a House of Religious Worship

<i>Classification</i>	<i>Property Damage Resulting from the Crime</i>	<i>Minimum Fine under the Bill</i>
Class D felony (up to five years in prison, a fine up to \$5,000, or both)	\$10,000 or less	\$1,000
Class C felony (one to 10 years in prison, a fine up to \$10,000, or both)	more than \$10,000	\$3,000

The bill prohibits the court from canceling or reducing the minimum fines unless the court states on the record its reasons for

doing so. The bill also allows the court to order the offender to pay financial restitution to the victim.

§ 2 — CONDITIONS OF PROBATION AND CONDITIONAL DISCHARGE

By law, a court, as a condition of probation or conditional discharge, may require an offender to participate in certain programs if he or she is convicted of (1) a bigotry or bias crime; (2) deprivation of rights, desecration of property, or cross burning; or (3) deprivation of a person's civil rights by a person wearing a mask or hood.

Under current law, the court may require such an offender to participate in an anti-bias crime education program. The bill instead allows the court to require the offender to participate in (1) an anti-bias or diversity awareness program or (2) a community service program designed to remedy damage caused by the commission of a bias crime or otherwise related to the defendant's violation.

§§ 3 & 4 — THREATENING CRIMES

1st Degree Threatening

By law, 1st degree threatening includes threats to commit a violent crime or a crime using a hazardous substance with intent to cause, or with reckless disregard of the risk of causing, (1) evacuation of a building, place of assembly, or public transportation facility; (2) serious public inconvenience; or (3) for hazardous substance crimes, terror in a person.

The bill increases the penalty for such 1st degree threatening from a class D felony to a class C felony, if the threat was made with intent to cause the evacuation of the building or grounds of a house of religious worship, religiously-affiliated community center, or day care center during operational hours or when such buildings or grounds are being used to provide religious or community services or for house of worship-, community center-, or day care center-sponsored activities.

By law, unchanged by the bill, such 1st degree threatening is already a class C felony if the threat was made with the intent to cause the

evacuation of a preschool, school, or institution of higher education.

2nd Degree Threatening

By law, a person is guilty of 2nd degree threatening when he or she (1) intentionally places or attempts to cause someone to fear imminent serious physical injury by physical threat or (2) threatens to commit a violent crime with intent to terrorize someone or in reckless disregard of the risk of doing so.

The bill increases the penalty for this crime from a class A misdemeanor to a class D felony if the threatened person was in the building or on the grounds of a house of religious worship, religiously-affiliated community center, or day care center during operational hours or when such buildings or grounds are being used to provide religious or community services or for house of worship-, community center-, or day care center-sponsored activities.

By law, such 2nd degree threatening is already a class D felony if the threatened person was in the building or on the grounds of a preschool, school, or higher education institution.

§§ 5-7 — INTIMIDATION BASED ON BIGOTRY OR BIAS

The bill makes the following changes to the crimes of 1st, 2nd, and 3rd degree intimidation based on bigotry or bias (see BACKGROUND):

1. adds “sex” to the list of protected classes;
2. enhances the penalty for these crimes by imposing a minimum fine depending on the degree of the crime, as shown in Table 2;
3. prohibits the court from canceling or reducing the minimum fine unless the court states on the record its reasons for doing so;
4. requires, for the 1st degree crime, that the intimidation causes physical injury, instead of serious physical injury;
5. adds, to the definition of the 2nd degree crime, the intimidation or harassment of a group of people, instead of just an individual;

and

6. increases, from a class A misdemeanor to a class E felony, the penalty for the 3rd degree crime, as shown in Table 2.

Table 2: Intimidation Based on Bigotry or Bias

Crime	Classification under Current Law	Classification under the Bill	Minimum Fine under the Bill*
1 st degree	Class C felony (one to 10 years in prison, a fine up to \$10,000, or both)	Unchanged	\$3,000
2 nd degree	Class D felony (up to five years in prison, a fine up to \$5,000, or both)	Unchanged	\$1,000
3 rd degree	Class A misdemeanor (up to one year in prison, a fine up to \$2,000, or both)	Class E felony (up to three years in prison, a fine up to \$3,500, or both)	\$1,000

*Unless the court states on the record its reasons for canceling or reducing the minimum fine.

§§ 8 & 11 — STATE-WIDE HATE CRIMES ADVISORY COUNCIL

The bill eliminates the existing Hate Crimes Advisory Committee and replaces it with a new State-Wide Hate Crimes Advisory Council within the Office of the Chief State's Attorney.

The council must meet at least semiannually to encourage and coordinate programs to increase community awareness, reporting, and combating of hate crimes. (The Hate Crimes Advisory Committee has a similar mission.)

Members and Appointments

The council's members include the following individuals, or their designees:

1. the chief state's attorney;
2. the chief public defender;
3. the DESPP commissioner;

4. the Connecticut Bar Association, George W. Crawford Black Bar Association, South Asian Bar Association of Connecticut, Connecticut Asian Pacific American Bar Association, and Connecticut Hispanic Bar Association presidents;
5. the Connecticut Police Chiefs Association president; and
6. up to 30 representatives of organizations committed to decreasing hate crimes, improving diversity awareness, or representing the interests of groups within the state protected by Connecticut's intimidation statutes (§§ 5-7 of the bill), appointed by the governor.

The governor must also appoint the council's two chairpersons from among its members.

Recommendations and Reporting

The bill requires the council to make recommendations for any legislation concerning hate crimes, such as:

1. restitution for victims of such crimes,
2. community service designed to remedy damage caused by any such crime or related to the commission of any such crime, and
3. additional alternative sentencing programs for first-time offenders and juvenile offenders.

The council must report its recommendations to the Judiciary and Public Safety committees annually starting October 1, 2018.

§ 9 — TOLL-FREE HOTLINE

The bill requires the DESPP commissioner to establish a toll-free hotline to receive and respond to text messages and telephone calls from people reporting hate crimes.

Referral and Resources

The hotline staff must direct the person reporting the crime to the

proper law enforcement agency, if appropriate, and locally available support services.

The commissioner must ensure that the hotline is accessible to people with limited English proficiency and persons with disabilities.

Confidentiality

Under the bill, any personally identifiable information that a person provides to hotline staff is confidential and must not be disclosed without the reporting person's consent.

Training

The commissioner must ensure that staff who operate the hotline are trained on federal, state, and municipal hate crime laws; law enforcement resources; and support services applicable to and available locally to address the needs of a person reporting or impacted by any such crime or incident.

Funding

To publicize and operate the hotline, the commissioner must use fines collected from offenders who commit hate crimes involving deprivation of rights, desecration of property, cross burning, bigotry, or bias.

§ 10 — EMPLOYMENT PROTECTION FOR WITNESSES AND CRIME VICTIMS

The bill prohibits an employer from depriving, penalizing, threatening, or coercing an employee with respect to employment if the:

1. employee is absent up to 16 hours in any calendar year as a result of the closure or evacuation of the employee's child's day care or school and
2. closure or evacuation was due to a threat of violence against the day care's or school's building, premises, staff, children, or students.

Existing law prohibits an employer from doing so for other reasons, including situations where the employee (1) obeys a subpoena as a witness in a criminal proceeding, (2) is a family violence victim, or (3) has a restraining or protective order issued on his or her behalf.

BACKGROUND

1st Degree Intimidation

Under existing law, a person commits the 1st degree crime of intimidation based on bigotry or bias if he or she maliciously and with specific intent to intimidate or harass another person because of that person's actual or perceived race, religion, ethnicity, disability, sexual orientation, or gender identity or expression causes serious physical injury to that person or a third person.

2nd Degree Intimidation

Under existing law, a person commits the 2nd degree crime if he or she acts maliciously with specific intent to intimidate or harass another person because of that person's actual or perceived race, religion, ethnicity, disability, sexual orientation, or gender identity or expression by:

1. making physical contact with the victim;
2. damaging, destroying, or defacing property; or
3. threatening to do either of these things, and the victim has reasonable cause to believe he will carry out the threat.

3rd Degree Intimidation

Under existing law, a person commits the 3rd degree crime if he or she, with specific intent to intimidate or harass a person or group of people because of their actual or perceived race, religion, ethnicity, disability, sexual orientation, or gender identity or expression (1) damages, destroys, or defaces any property or (2) threatens to do so by word or act or advocates or urges another person to do so and gives the victim reasonable cause to believe the act will occur.

COMMITTEE ACTION

Judiciary Committee

Joint Favorable Substitute

Yea 38 Nay 1 (04/03/2017)