



2018 NOV 29 PM 4: 33

OFFICE OF THE
SECRETARY

MURIEL BOWSER
MAYOR

NOV 29 2018

The Honorable Phil Mendelson
Chairman, Council of the District of Columbia
John A. Wilson Building
1350 Pennsylvania Ave., NW, Suite 504
Washington, DC 20004

Dear Chairman Mendelson:

Enclosed for consideration and approval by the Council of the District of Columbia is are bills entitled the *Community Harassment Prevention Emergency Declaration Resolution of 2018*, *Community Harassment Prevention Emergency Amendment Act of 2018*, *Community Harassment Prevention Temporary Amendment Act of 2018*, *Community Harassment Prevention Amendment Act of 2018*, which seek to provide additional safeguards for protected classes against bias-related crimes in the District.

Specifically, the legislation amends the *Omnibus Public Safety and Justice Amendment Act of 2009* (D.C. Law 18-88; D.C. Official Code *passim*), to create the offense of Harassing an Entity. This offense would prohibit a person from purposefully engaging in a course of conduct directed at a specific entity with the intent to cause members, participants, or employees of that entity to fear for their safety, feel alarmed, disturbed or frightened, or suffer emotional distress. It also prohibits a person from engaging in course of conduct that the person knows or should have known would cause members, participants, or employees of the entity to fear for their safety, feel seriously alarmed, disturbed, or frightened, or suffer emotional distress. Further, the bill amends section 3(a) of the *Anti-Intimidation and Defacing of Public or Private Property Criminal Penalty Act of 1982* (D.C. Law 4-203; D.C. Official Code § 22-3312.02(a)) to expand the types of property on which it is unlawful to display certain emblems that deprive any person or class of persons of equal protection of the law or that intimidate or causes fear in a person or threatens to harm a person or damage property.

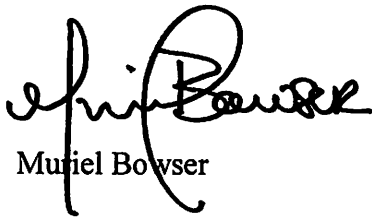
Reports of bias-related crimes and incidents have increased significantly in the District – and the country – in the past two years. As we have seen all too clearly recently, from the murder of an African American couple in a Kroger parking lot to the horrific shooting at the Tree of Life synagogue that left 11 people dead, each hate crime takes a toll not only on the victim, but also on the community. I have made it a priority of my administration to provide support to our individuals and the community that have been targeted by hate.

While the rise in reported hate crimes has been disturbing, the harassing incidents that may not currently be covered by our extensive statute on bias related crimes is just as troubling. Organizations have been targeted for repeated harassing phone calls and letters, causing alarm among employees and members. However, the existing stalking statute (D.C. Code § 22-3133) protects an “individual,” and it is unclear whether that will extend to the same behavior targeting an organization. As a result, the legislation seeks to serve as a remedy for entities organized by association for any established purpose that are vulnerable to serious incidents of harassment and implied threats. By providing law enforcement with a tool for combatting this harassment, it ensures that individuals can safely assemble to advance their common interests.

Additionally, the current “display of certain emblems” statute only covers private premises or property in the District primarily used for religious, educational, residential, memorial, charitable, cemetery purposes, or any public property. So while more than twenty suspected nooses and swastikas have been reported in the District in 2017 and 2018, it is not clear that someone placing them on some types of property with an intent to intimidate or frighten the community could be held accountable. By expanding the statute to apply to any public property or private property of another without permission, the bill provides additional recourse in cases of displays of certain symbols of hate.

Given the current trends showing an increase in bias-related crimes and incidents, I believe that emergency legislative action is necessary to protect District residents. I urge the Council to move forward quickly with consideration and passage of the legislation. Chief Peter Newsham and I are available to discuss any questions you may have.

Sincerely,

A handwritten signature in black ink, appearing to read "Muriel Bowser". The signature is fluid and cursive, with a large initial "M" and "B".

Muriel Bowser



Chairman Phil Mendelson
at the request of the Mayor

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A BILL

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IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

5 To amend the Anti-Intimidation and Defacing of Public or Private Property Criminal Penalty Act
6 of 1982 to make it unlawful to deface or burn a religious or secular symbol on any
7 property of another without permission or to place or display on such property a physical
8 impression that a reasonable person would perceive as a threat to physically damage the
9 property of another; and to amend the Omnibus Public Safety and Justice Amendment
10 Act of 2009 to make it unlawful to harass an entity.

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BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this

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act may be cited as the “Community Harassment Prevention Amendment Act of 2018”.

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Sec. 2. Section 3(a) of the Anti-Intimidation and Defacing of Public or Private Property

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Criminal Penalty Act of 1982, effective March 10, 1983 (D.C. Law 4-203; D.C. Official Code §

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22-3312.02(a)), is amended as follows:

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(a) The lead-in language is amended to read as follows:

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“(a) It shall be unlawful for any person to burn, desecrate, mar, deface, or damage a

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religious or secular symbol on any private property of another without the permission of the

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owner or the owner’s designee or on any public property in the District of Columbia; or to place

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or to display in any of these locations a sign, mark, symbol, emblem, or other physical

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impression including, but not limited to: a Nazi swastika, a noose, or any manner of exhibit

23 which includes a burning cross, real or simulated, where it is probable that a reasonable person
24 would perceive that the intent is:”

25 (b) Paragraph (3) is amended by striking the word “person” and inserting the phrase
26 “person or property” in its place.

27 Sec. 3. The Omnibus Public Safety and Justice Amendment Act of 2009, effective
28 December 10, 2009 (D.C. Law 18-88; D.C. Official Code *passim*), is amended as follows:

29 (a) The heading of Title V is amended to read as follows:

30 “TITLE V
31 STALKING; HARASSING AN ENTITY”.

32 (b) Section 501 (D.C. Official Code § 22-3131) is amended by adding a new subsection
33 (c) to read as follows:

34 “(c) This title also provides law enforcement with a tool for combatting harassment of an
35 entity, thereby helping to ensure that individuals can safely assemble to advance their common
36 interests.”.

37 (c) Section 502 (D.C. Official Code § 22-3132) is amended by adding a new paragraph
38 (4A) to read as follows:

39 “(4A) “Entity” means a group organized by association for any established
40 common purpose, including, but not limited to a religious, social, educational, or recreational
41 purpose.

42 (d) A new section 503a is added to read as follows:

43 “Sec. 503a. Harassing an entity.

44 “(a) It is unlawful for a person to purposefully engage in a course of conduct directed at a
45 specific entity:

46 “(1) With the intent to cause members, participants, or employees of that entity to:

47 “(A) Fear for their safety;

48 “(B) Feel seriously alarmed, disturbed, or frightened; or

49 “(C) Suffer emotional distress;

50 “(2) That the person knows would cause members, participants, or employees, of

51 that entity to:

52 “(A) Fear for their safety;

53 “(B) Feel seriously alarmed, disturbed, or frightened; or

54 “(C) Suffer emotional distress; or

55 “(3) That the person should have known would cause a reasonable person who is

56 a member, participant, or employee of that entity to:

57 “(A) Fear for his or her safety;

58 “(B) Feel seriously alarmed, disturbed, or frightened; or

59 “(C) Suffer emotional distress.

60 “(b) This section does not apply to constitutionally protected activity.

61 “(c) Where a single act is of a continuing nature, each 24-hour period constitutes a

62 separate occasion.”.

63 “(d) The conduct on each of the occasions need not be the same as it is on the others.”.

64 (e) The heading of section 504 (D.C. Official Code § 22-3134) is amended to read as

65 follows:

66 “Sec. 504. Penalties for stalking.”.

67 (f) A new section 504a is added to read as follows:

68 “Sec. 504a. Penalties for harassing an entity.

69 “(a) Except as provided in subsections (b) and (c) of this section, a person who violates
70 section 503a shall be fined not more than the amount set forth in section 101 of the Criminal Fine
71 Proportionality Amendment Act of 2013, effective July 5, 2013 (D.C. Law 19-317; D.C. Official
72 Code § 22-3571.01), imprisoned for not more than 12 months, or both.

73 “(b) A person who violates section 503a shall be fined not more than the amount set forth
74 in section 101 of the Criminal Fine Proportionality Amendment Act of 2013, effective July 5,
75 2013 (D.C. Law 19-317; D.C. Official Code § 22-3571.01), imprisoned for not more than 5
76 years, or both, if the person:

77 “(1) At the time, was subject to a court, parole, or supervised release order
78 prohibiting contact with an entity’s members, participants, or employees;

79 “(2) Has one prior conviction in any jurisdiction of harassing any entity within the
80 previous 10 years; or

81 “(3) Caused more than \$2,500 in financial injury.

82 “(c) A person who violates section 503a shall be fined not more than the amount set forth
83 in section 101 of the Criminal Fine Proportionality Amendment Act of 2013, effective July 5,
84 2013 (D.C. Law 19-317; D.C. Official Code § § 22-3571.01), imprisoned for not more than 10
85 years, or both, if the person has 2 or more prior convictions in any jurisdiction for harassing an
86 entity, at least one of which was for a jury demandable offense.”.

87 Sec. 4. Fiscal impact statement.

88 The Council adopts the fiscal impact statement in the committee report as the fiscal
89 impact statement required by section 602(c)(3) of the District of Columbia Home Rule Act,
90 approved December 24, 1973 (87 Stat. 813; D.C. Official Code § 1-206.02 (c)(3)).

91 Sec. 5. Effective date.

92 This act shall take effect following approval by the Mayor (or in the event of veto by the
93 Mayor, action by the Council to override the veto), a 30-day period of Congressional review as
94 provided in section 602(c)(2) of the District of Columbia Home Rule Act, approved December
95 24, 1973 (87 Stat. 813; D.C. Official Code § 1-206.02(c)(2)), and publication in the District of
96 Columbia Register.

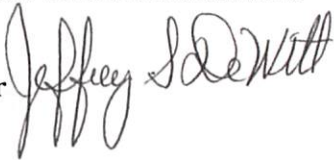
Government of the District of Columbia
Office of the Chief Financial Officer



Jeffrey S. DeWitt
Chief Financial Officer

MEMORANDUM

TO: The Honorable Phil Mendelson
Chairman, Council of the District of Columbia

FROM: Jeffrey S. DeWitt
Chief Financial Officer 

DATE: October 24, 2018

SUBJECT: Fiscal Impact Statement – Communities Harassment Prevention
Amendment Act of 2018

REFERENCE: Draft Bill as shared with the Office of Revenue Analysis on September
13, 2018

Conclusion

Funds are sufficient in the fiscal year 2019 through fiscal year 2022 budget and financial plan to implement the bill.

Background

Current law¹ makes it illegal to burn, desecrate, mar, deface, or damage a religious or secular symbol on public property or private religious, educational, residential, memorial, charity, or cemetery properties. The bill expands the protections to include all property in the District regardless of its use.

The bill also establishes a new offense of harassment of an entity where that entity is a group that is organized based on any common purpose.² The bill makes it unlawful for any individual to make any member, participant, or employee of an entity fear for her or his safety, suffer emotional distress, or feel alarmed or frightened. An individual who harasses an entity is subject to imprisonment of not more than twelve months, a fine of \$2,500, or both. The bill increases the penalties for an offender who has multiple convictions in any jurisdiction of harassing an entity, is subject to a legal order prohibiting contact with the entity, or causes more than \$2,500 in financial

¹ Omnibus Public Safety and Justice Amendment Act of 2009, effective December 10, 2009 (D.C. Law 18-88; D.C. Official Code § 22-3131 et seq.).

² Including, but not limited to a religious, social, educational, or recreational purpose.

The Honorable Phil Mendelson

FIS: "Communities Harassment Prevention Amendment Act of 2018," Draft Bill as shared with the Office of Revenue Analysis on September 13, 2018

injury.³ If an act of harassment is continuous, each 24-hour period is considered a separate harassment action.

Financial Plan Impact

Funds are sufficient in the fiscal year 2019 through fiscal year 2022 budget and financial plan to implement the bill. The bill provides law enforcement with expanded powers to protect religious and secular symbols on all District property and establishes a new offense to protect the members, employees, or participants of protected entities. There are no costs associated with the bill's implementation.

³ The penalty is imprisonment of not more than five years, a fine of \$12,500, or both under these additional conditions except that two or more offenses carries a penalty of imprisonment of not more than ten years, a fine of \$25,000, or both.

GOVERNMENT OF THE DISTRICT OF COLUMBIA
OFFICE OF THE ATTORNEY GENERAL

ATTORNEY GENERAL
KARL A. RACINE



Legal Counsel Division

MEMORANDUM

TO: Alana Intrieri
Executive Director
Office of Policy and Legislative Affairs

FROM: Janet M. Robins
Deputy Attorney General
Legal Counsel Division

DATE: November 29, 2018

SUBJECT: Legal Sufficiency Certification of the “Community Harassment Prevention Amendment Act of 2018,” Emergency and Temporary Versions and Emergency Declaration Resolution (AE-17-644-D)

This is to Certify that this Office has reviewed the above-referenced legislation and has found it to be legally sufficient. If you have any questions regarding this certification, please do not hesitate to contact me at 724-5524.


Janet M. Robins