

2021 South Dakota Legislature

Senate Bill 166**AMENDMENT 166B FOR THE INTRODUCED BILL**

1 **An Act to revise provisions regarding hate crimes.**

2 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

3 **Section 1.** That § 22-19B-1 be AMENDED.

4 **22-19B-1. Malicious intimidation or harassment--Felony.**

5 ~~No~~A person ~~may~~is guilty of a Class 6 felony if the person maliciously and with the
6 specific intent to intimidate or harass any other person or ~~specific~~ group of persons in
7 whole or in part because of that person's or group of persons' actual or perceived race,
8 color, ethnicity, religion, ancestry, or national origin, disability, sex, sexual orientation,
9 gender identity, or identification as a Native American Two-Spirit:

10 (1) ~~Cause~~Causes physical injury to another person; ~~or~~

11 (2) ~~Deface~~Defaces any real or personal property of another person; ~~or~~

12 (3) ~~Damage~~Damages or ~~destroy~~destroys any real or personal property of another
13 person; or

14 (4) ~~Threaten~~Threatens, by word or act, to do the acts prohibited if there is reasonable
15 cause to believe that any of the acts prohibited in subdivision (1), (2), or (3) of this
16 section will occur.

17 A violation of this section is a Class 6 felony.

18 ~~**Section 2.** That a NEW SECTION be added:~~

19 ~~**23-6-4.1 Bias motivated crime reporting requirements:**~~

20 ~~All law enforcement agencies of the state and political subdivisions thereof shall~~
21 ~~record suspected bias motivated crimes, including the basis or bases upon which the~~
22 ~~suspected bias motivated crime occurred. In a manner prescribed by the director, all law~~
23 ~~enforcement agencies in the state shall report suspected bias motivated crime data on a~~
24 ~~quarterly basis to the bureau. The director shall ensure that bias motivated crime data~~

1 ~~from all law enforcement agencies within the state is submitted annually to the Federal~~
2 ~~Bureau of Investigation for inclusion in the hate crime statistics report. The director shall~~
3 ~~issue a detailed annual report on statewide bias motivated crimes, including data on~~
4 ~~prosecutions under § 22-19B-1. A violation of this section is a Class 2 misdemeanor.~~

5 ~~For purposes of this section, bias motivated crime means a criminal act committed~~
6 ~~against a person or a person's property in whole or in part because of actual or perceived~~
7 ~~race, color, ethnicity, religion, ancestry, national origin, disability, sex, sexual orientation,~~
8 ~~gender identity, or identification as a Native American Two Spirit, or which is committed~~
9 ~~for the purpose of restraining that person from exercising the person's rights under the~~
10 ~~Constitution or laws of this state or of the United States in whole or in part because of~~
11 ~~actual or perceived race, color, ethnicity, religion, ancestry, national origin, disability, sex,~~
12 ~~sexual orientation, gender identity, or identification as a Native American Two Spirit.~~

13 **Section 3.** That a NEW SECTION be added:

14 **23-3-39.9. Bias motivated crime training requirements.**

15 ~~The initial training of a law enforcement officer shall include training on the proper~~
16 ~~identification, investigation, documentation, and reporting of bias motivated crimes as~~
17 ~~defined in § 23-6-4.1. This training shall include instruction on all relevant state and~~
18 ~~federal bias motivated crime laws, including mandatory reporting of bias motivated~~
19 ~~crimes under § 23-6-4.1. After initial training, each law enforcement officer shall receive~~
20 ~~annual training on bias motivated crime.~~