



WISCONSIN LEGISLATIVE COUNCIL AMENDMENT MEMO

2017 Assembly Bill 48

Assembly Amendment 1

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BACKGROUND

In general, under current law, if a crime is committed under the Criminal Code (chs. 939 to 948, Stats.), the penalty of a crime may be increased if the actor intentionally selects the person against whom the crime is committed or selects the property that is damaged or otherwise affected by the crime because of a belief or perception regarding the race, religion, color, disability, sexual orientation, national origin or ancestry of that person, or the owner or occupant of that property, whether or not the belief or perception was correct. This is commonly referred to as the **hate crime penalty enhancer**. The hate crime penalty enhancer increases penalty of the crime as follows:

- If the crime committed is ordinarily a misdemeanor other than a Class A misdemeanor, the revised maximum fine is \$10,000 and the revised maximum term of imprisonment is one year in the county jail.
- If the crime committed is ordinarily a Class A misdemeanor, the penalty increase under this section changes the status of the crime to a felony and the revised maximum fine is \$10,000 and the revised maximum term of imprisonment is two years.
- If the crime committed is a felony, the maximum fine prescribed by law for the crime may be increased by not more than \$5,000 and the maximum term of imprisonment prescribed by law for the crime may be increased by not more than five years.

The hate crime penalty enhancer may not be applied to any crime, however, if proof of race, religion, color, disability, sexual orientation, national origin or ancestry or proof of the actor's perception or belief regarding another's race, religion, color, disability, sexual orientation, national origin or ancestry is required for a conviction of that crime.

2017 ASSEMBLY BILL 48

Under 2017 Assembly Bill 48 (the bill), the penalty of a crime committed under the Criminal Code may be increased with the hate crime penalty enhancer if the actor intentionally selected the person against whom the crime is committed, or selects the property that is damaged or otherwise affected by the crime because of the actor's belief or perception that the person or the owner or occupant of that property is employed as a law enforcement officer.

The bill also provides that the penalty of a crime may not be increased with the hate crime penalty enhancer if proof of employment status or proof of any person's perception or belief regarding another's employment status is required for a conviction of that crime.

ASSEMBLY AMENDMENT 1

Assembly Amendment 1 (AA 1) repeals the limitation as to which crimes in the Criminal Code may be increased with the hate crime penalty enhancer. Under AA 1, any crime in the Criminal Code may be increased with the hate crime penalty enhancer, regardless of whether proof of race, religion, color, disability, sexual orientation, national origin, ancestry, or employment status, or proof of any person's perception or belief regarding another's race, religion, color, disability, sexual orientation, national origin, ancestry, or employment status is required for a conviction of that crime.

BILL HISTORY

Representative Steffen introduced AA 1 on June 6, 2017. On June 8, 2017, the Assembly Committee on Criminal Justice and Public Safety voted to recommend adoption of AA 1 by a vote of Ayes, 8; Noes, 4; and voted to recommend passage of the bill, as amended, by a vote of Ayes, 7; Noes, 5.

MS:jal