

In response to inquiries from Rep. McDermott, Mr. Holden stated the following: 1) this fee would subtract from the money available for child support, 2) the cost for handling support payments has decreased since being collected by the counties, and 3) no research has been conducted on the legality of directing court action.

Rep. Harris spoke in favor of the measure, noting Rep. Loveland's interest and work on this topic and stating that the bill addresses the problem appropriately.

MOTION:
Rep. Kennevic made a motion that RS 9257 be introduced for printing. Rep. Chatburn seconded the motion. The Motion Carried. Reps. Winchester and McDermott requested the minutes show their votes to be "Nay".

At the request of the chair, with no objection, the Subcommittee on S 1020 presented its report to the committee. Rep. Montgomery, Chairman of the subcommittee, expressed its appreciation for the interest and testimony of many concerned citizens, and stated that the proposed amendments, unanimously accepted by the subcommittee, represent a compromise effort to alleviate the concerns and objections while, at the same time, preserving the original intent of S 1020.

Rep. Kennevic asked unanimous consent that S 1020 be brought before the committee for its consideration. There being no objection, So Ordered.

S 1020:
PROVIDING A DEFINITION OF MALICIOUS HARASSMENT AND DESIGNATING IT A CRIME. Rep. Montgomery presented the following amendments to the committee:

1) Section 1, 1. 7, after "Code" insert: "It is not the intent of th legislature that this chapter be construed or used to support ratification by the U.S. Senate of the UN Convention on the Prevention and Punishment of the Crime of Genocide, 1948", and delete "and to" and insert in lieu thereof "Said chapter will".

These amendments are offered to dispel the fear that this bill would be used to express support by Idaho for ratification of the Genocide Treaty, thus jeopardizing its chances for passage.

- 2) Page 1, 1. 27: before "intent" insert "specific"
- 3) Page 1, 1. 33 and 34: delete phrase "the person threatened has" and insert in lieu thereof "there is".
- 4) Page 2, 1. 5-10: delete subsection (b) in its entirety and also references to "civil" in title.

These last amendments provide for a criminal statute only and one which can be enforced only through prosecutorial discretion, removing the possibility of misuse or abuse of the legislation's provisions via the civil remedy route.

MOTION:
Rep. McDermott made a motion that the report of the subcommittee incorporating the proposed amendments to S 1020 be adopted by the committee. Rep. Harris seconded the motion.

In response to inquiry from Rep. Strasser regarding placement of Genocide Treaty reference in title rather than in section 18-7901, Rep. Montgomery explained this approach will

allow the language to appear in the Session Laws but not in the Code book since it does not relate to the subject of the legislation. In response to inquiry from Rep. Winchester, Rep. Montgomery stated that the court considers the language of the Session Laws as the primary source in determining legislative intent. Rep. Cushman stated this does not affect the basic legislation but sends a message to our Senators and their 98 colleagues.

Question on motion. The Motion Carried.

Rep. Winchester asked unanimous consent that S 1020 be held in committee until Monday, March 14. Rep. Stoicheff objected.

MOTION: Rep. Cushman made a motion that S 1020 be sent to the desk to be placed on General Orders for Amendment. Rep. Bunting seconded the motion.

SUB.

MOTION: Rep. Strasser made a motion that S 1020 be held in committee. The chair ruled the motion lost for lack of a second.

SUB.

MOTION: Rep. Winchester made a motion that S 1020 be held in committee until Monday, March 14. Rep. Bateman seconded the motion.

Reps. Bateman and Strasser expressed concern that constituents will not have ample time to study and discuss the proposed changes to S 1020.

Rep. Stoicheff stated approving the original motion will allow the mechanics of printing the amendments to be accomplished so that they then may be studied and discussed, since the bill can be held on the floor or even referred back to committee. Rep. Bunting stated that since the bill must be returned to the Senate for its consideration, there will be ample exposure time in which to detect any errors.

Question on substitute motion. Roll Call: 6 Ayes, 11 Nays.
The Motion Failed.

Question on original motion. The Motion Carried. S 1020 will be sent to the desk to be placed on General Orders for Amendment. Reps. Montgomery and Cushman will co-sponsor the legislation.

There being no further business, the meeting adjourned at 10:20 a.m. until one hour before convening of session on Monday, March 14, 1983.

Walter E. Little

Walter E. Little, Chairman

Margaret Lundy

Margaret Lundy, Secretary

STATEMENT OF PURPOSE

This bill would make malicious harassment a crime punishable by imprisonment and/or fine. The purpose is to protect Idaho citizens from violence and threats because of their race, color, or religion.

FISCAL NOTE

No fiscal impact that can be accurately computed. It is not anticipated that it will result in large numbers of trials.

STATEMENT OF PURPOSE

RS 8673

Senate 1021

The Purpose of this bill is to set up the licensure provisions for alcohol & drug counselors - a newly licensed occupation. The licensing will be under the bureau of Occupational Licenses. A new Chapter 34, Title 34 is added & details regarding definitions, organization of the board, qualifications for licensure, Grandfather clause, disciplinary procedures, injunctive procedures, and fees are covered under the act.

FISCAL IMPACT

The fees should produce \$ 10,000 annually & the Bureau of Occupational Licensing estimates that this should cover the expenses of this self governing board.

- (a) Cause physical injury to another person; or
- (b) Damage, destroy, or deface any real or personal property of another person; or
- (c) Threaten, by word or act, to do the acts prohibited if there is reasonable cause to believe that any of the acts described in subsections (a) and (b) of this section will occur.

For purposes of this section, "deface" shall include, but not be limited to, cross-burnings or the placing of any word or symbol commonly associated with racial, religious or ethnic terrorism on the property of another person without his or her permission.

History.
I.C., § 18-7902, as added by 1983, ch. 110,
§ 2, p. 236.

JUDICIAL DECISIONS

ANALYSIS

Relevant evidence.
Sufficient evidence.

Relevant Evidence.

In defendant's prosecution for malicious harassment and conspiracy to commit malicious harassment, it was not an abuse of discretion to admit defendant's co-conspirators' racially motivated tattoos, even though defendant had none, because the co-conspirators' racially-based intent was relevant to defendant's similar motive. *State v. Tankovich*, 155 Idaho 221, 307 P3d 1247 (Ct. App. 2013).

Sufficient Evidence.

Sufficient evidence supported defendant's

Cited in: *State v. Rae*, 139 Idaho 650, 84 P3d 586 (Ct. App. 2004).

18-7903. Penalties — Criminal and civil. — (a) Malicious harassment is punishable by imprisonment in the state prison for a period not to exceed five (5) years or by fine not exceeding five thousand dollars (\$5,000) or by both.

(b) In addition to the criminal penalty provided in subsection (a) of this section, there is hereby created a civil cause of action for malicious harassment. A person may be liable to the victim of malicious harassment for both special and general damages, including but not limited to damages for emotional distress, reasonable attorney fees and costs, and punitive damages.

(c) The penalties provided in this section for malicious harassment do not preclude victims from seeking any other remedies, criminal or civil, otherwise available under law.

History.

I.C., § 18-7903, as added by 1983, ch. 110,
§ 2, p. 236; am. 1987, ch. 275, § 1, p. 568.

18-7904. Effect of invalidity of part of this act. — If a court of

