



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.

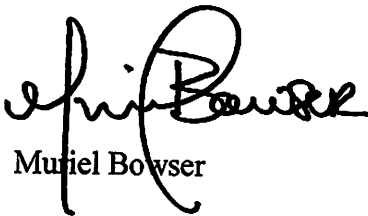
Reports of bias-related crimes and incidents have increased significantly in the District – and the country – in the past two years. As we have seen all too clearly recently, from the murder of an African American couple in a Kroger parking lot to the horrific shooting at the Tree of Life synagogue that 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,



Muriel Bowser


Chairman Phil Mendelson
at the request of the Mayor

A PROPOSED RESOLUTION

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

To declare the existence of an emergency with respect to the need to amend the Anti-Intimidation and Defacing of Private Property Criminal Penalty Act of 1982 to make it unlawful to deface or burn a religious or secular symbol on any property of another without permission and to amend the Omnibus Public Safety and Justice Amendment Act of 2009 to make it unlawful to harass an entity.

RESOLVED, BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this resolution may be cited as the “Community Harassment Prevention Emergency Declaration Resolution of 2018”.

Sec. 2 (a) Reports of crimes motivated by bias and hate have increased in the District and around the country in the past two years. Crimes motivated by bias or hate can make a targeted community feel more vulnerable and fearful.

(b) Hate crimes in other jurisdictions are sometimes followed by an increase in local hate incidents and crimes, triggering fear in communities in the District. On October 27, 2018, the Metropolitan Police Department and Mayor Bowser’s Office of Religious Affairs and Office of Human Rights held a conference call with more than 60 leaders of the District’s faith communities who were alarmed by the October 24th shooting in Kentucky of two African

34 Americans after the shooter had attempted but failed to enter a historic African American church
35 and by the mass shooting at the Pittsburgh Tree of Life synagogue on October 27th.

36 (b) Even non-violent hate crimes can lead to violence by promoting and justifying
37 discrimination, hatred, and violence against a person or group.

38 (c) Intolerance, bigotry, and crimes motivated by bias or hate have no place in our
39 vibrant city. The District of Columbia is committed to protecting its diverse communities, and
40 discouraging anyone from harassing a community, causing reasonable people to fear for their
41 personal safety or the safety of others.

42 (d) Several recent incidents have highlighted areas in which the District of Columbia's
43 comprehensive laws should be strengthened in order to better protect our communities.

44 (e) More than a dozen nooses were displayed throughout the city in 2017, including at
45 construction sites, a university, and federal museums and monuments. These nooses evoked
46 memories of this country's reprehensible history with lynching, causing alarm and fear in black
47 communities. However, regardless of any intent to threaten or cause fear, some of the incidents
48 might not qualify as a crime under the District's statute prohibiting the display of nooses because
49 of the type of property on which they were displayed.

50 (f) Over the past two years, multiple houses of worship have been subjected to repeated
51 harassing calls or letters that, while containing no direct threat, seriously alarmed and frightened
52 members of the community or employees. While this action would be considered stalking under
53 District law if it were directed at an individual, it is unclear whether the protection applies to an
54 entity, even though the intent and effect may be the same.

55 (g) These gaps should be addressed without delay to prevent an escalation of fear or
56 violence in our communities.

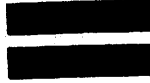
57 **Sec. 3. The Council of the District of Columbia determined that the circumstances**
58 **enumerated in section 2 constitute emergency circumstances making it necessary that the**
59 **“Community Harassment Prevention Emergency Amendment Act of 2018” be adopted after a**
60 **single reading.**

61 **Sec. 4. This resolution shall take effect immediately.**

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