

SENATE COMMITTEE SUBSTITUTE
 FOR
 SENATE BILLS NOS. 1150 & 1043
 AN ACT

To repeal section 557.035, RSMo, and to enact in lieu thereof two new sections relating to the offense of masked intimidation, with penalty provisions.

Be it enacted by the General Assembly of the State of Missouri, as follows:

Section A. Section 557.035, RSMo, is repealed and two new sections enacted in lieu thereof, to be known as sections 557.035 and 565.097, to read as follows:

557.035. 1. For all violations of section 565.054 or 565.090, subdivision (1) of subsection 1 of section 569.100, or subdivision (1), (2), (3), (4), (6), (7) or (8) of subsection 1 of section 571.030, which the state believes to be knowingly motivated because of race, color, religion, national origin, sex, sexual orientation or disability of the victim or victims, the state may charge the offense or offenses under this section, and the violation is a class D felony.

2. For all violations of section 565.056; subdivision (1) of subsection 1 of section 569.090; section 565.097; subdivision (1) of subsection 1 of section 569.120; section 569.140; or section 574.050; which the state believes to be knowingly motivated because of race, color, religion, national origin, sex, sexual orientation or disability of the victim or victims, the state may charge the offense or offenses under this section, and the violation is a class E felony.

3. The court shall assess punishment in all of the cases in which the state pleads and proves any of the motivating factors listed in this section.

565.097. 1. A person commits the offense of masked intimidation if the person intentionally harasses, intimidates, or threatens any other person while hiding or concealing their face with a mask, hood, or any other article or device for the purpose of concealing their identity and with the intent to place another person in reasonable fear for their physical safety.

2. A person who commits the offense of masked intimidation shall be guilty of a class E felony for the first offense, a class D felony for the second offense, and a class C felony for a third or subsequent offense.

3. This section shall not apply to any person wearing a mask or otherwise covering one's face for any purpose other than a purpose specified in subsection 1 of this section, in cases where a person is wearing a:

(1) Mask or face covering on or near the occasion of a holiday, celebration, or other event involving costumes;

(2) Mask, hood, article, or other device for the purpose of ensuring the physical safety of the wearer or because of the nature of the person's occupation, trade, or profession;

(3) Mask, hood, article, or other device for the purpose of protection from the weather elements or while participating in a winter sport;

(4) Mask, hood, article, or other device in an artistic or theatrical production or celebration;

(5) Gas mask or other protective facial covering for the purposes of protection during or related to emergency situations or during emergency management drills;

(6) A mask for the purpose of ensuring one's physical health and safety or the health and safety of others, including but not limited to limiting the spread of airborne illnesses; or

(7) Any garb for religious purposes.

4. Nothing in this section shall be construed to diminish or infringe upon any right protected under the First Amendment to the Constitution of the United States.

5. For purposes of this section, the following terms mean:

(1) "Harass", engaging in a knowing and willful pattern of conduct directed at a particular person or particular group of persons that is intended to cause that person or that group of persons to reasonably fear for their safety or suffer substantial emotional distress;

(2) "Intimidate", willfully and substantially interfering, by threats, intimidation, or coercion, with the exercise or enjoyment by any other person of rights secured by the constitution or laws of the United States, or of rights secured by the constitution or laws of this state, because of that person or person's actual or perceived race, color, religion, national origin, ethnicity, sex, gender, gender identity or expression, sexual orientation, or disability;

(3) "Threaten", communication with the clear intention to cause imminent physical injury to another person.