

Department of Legislative Services
 Maryland General Assembly
 2020 Session

FISCAL AND POLICY NOTE
 First Reader

House Bill 485 (Delegate Stewart)
 Judiciary

Criminal Law - Hate Crimes - Penalty (Educate Against Hate Act)

This bill requires the court to order a person convicted of a hate crime under Title 10, Subtitle 3 of the Criminal Law Article, in addition to any other penalty imposed, to complete no less than eight hours of educational instruction related to the group or community against whom the person committed the hate crime.

Fiscal Summary

State Effect: General fund expenditures increase by \$74,200 in FY 2021 only for computer programming. Additional expenditures (not reflected below) may be incurred. Revenues are not affected.

(in dollars)	FY 2021	FY 2022	FY 2023	FY 2024	FY 2025
Revenues	\$0	\$0	\$0	\$0	\$0
GF Expenditure	74,000	0	0	0	0
Net Effect	(\$74,000)	\$0	\$0	\$0	\$0

Note: () = decrease; GF = general funds; FF = federal funds; SF = special funds; - = indeterminate increase; (-) = indeterminate decrease

Local Effect: The bill does not materially affect local government operations or finances.

Small Business Effect: Minimal.

Analysis

Current Law: The State’s hate crimes statutes are contained in Title 10, Subtitle 3 of the Criminal Law Article, specifically §§ 10-302 (damaging property of a religious entity), 10-303 (obstructing exercise of religious beliefs), 10-304 (harassment or destruction of property), and 10-305 (damage to an associated building).

Section 10-302 (Damaging Property of a Religious Entity)

A person may not deface, damage, or destroy, or attempt or threaten to deface, damage, or destroy, personal or real property that is owned, leased, or used by a religious entity or for any religious purpose.

Section 10-303 (Obstructing Exercise of Religious Beliefs)

A person may not, by force or threat of force, obstruct or attempt to obstruct another in the free exercise of that person's religious beliefs.

Section 10-304 (Harassment or Destruction of Property)

A person may not engage in the following acts because another person or group is homeless or because of another person's or group's race, color, religious beliefs, sexual orientation, gender, disability, or national origin:

- commit a crime or attempt or threaten to commit a crime against another person or group;
- deface, damage, or destroy, or attempt or threaten to deface, damage, or destroy the real or personal property of another person or group;
- burn or attempt or threaten to burn an object on the real or personal property of another person or group; or
- commit any of these acts when the act involves a separate crime that is a felony or that results in the death of a victim.

Section 10-305 (Damage to an Associated Building)

A person may not deface, damage, or destroy; attempt or threaten to deface, damage, or destroy; burn or attempt or threaten to burn an object on; or damage the real or personal property connected to a building that is publicly or privately owned, leased, or used (1) because a person or group of a particular race, color, religious belief, sexual orientation, gender, or national origin, or because a person or group that is homeless, has contacts or is associated with the building or (2) if there is evidence that exhibits animosity against a person or group due to the race, color, religious beliefs, sexual orientation, gender, disability, or national origin of that group or because that person or group is homeless.

Penalties

In general, a person who violates these provisions is guilty of a misdemeanor, punishable by imprisonment for up to 3 years and/or a maximum fine of \$5,000. However, if a violation of § 10-304 involves a separate felony, the violator is guilty of a felony and is subject to imprisonment for up to 10 years and/or a fine of up to \$10,000. If a violation of § 10-304 results in the death of the victim, the violator is subject to imprisonment for up to 20 years and/or a fine of up to \$20,000.

First Amendment Rights

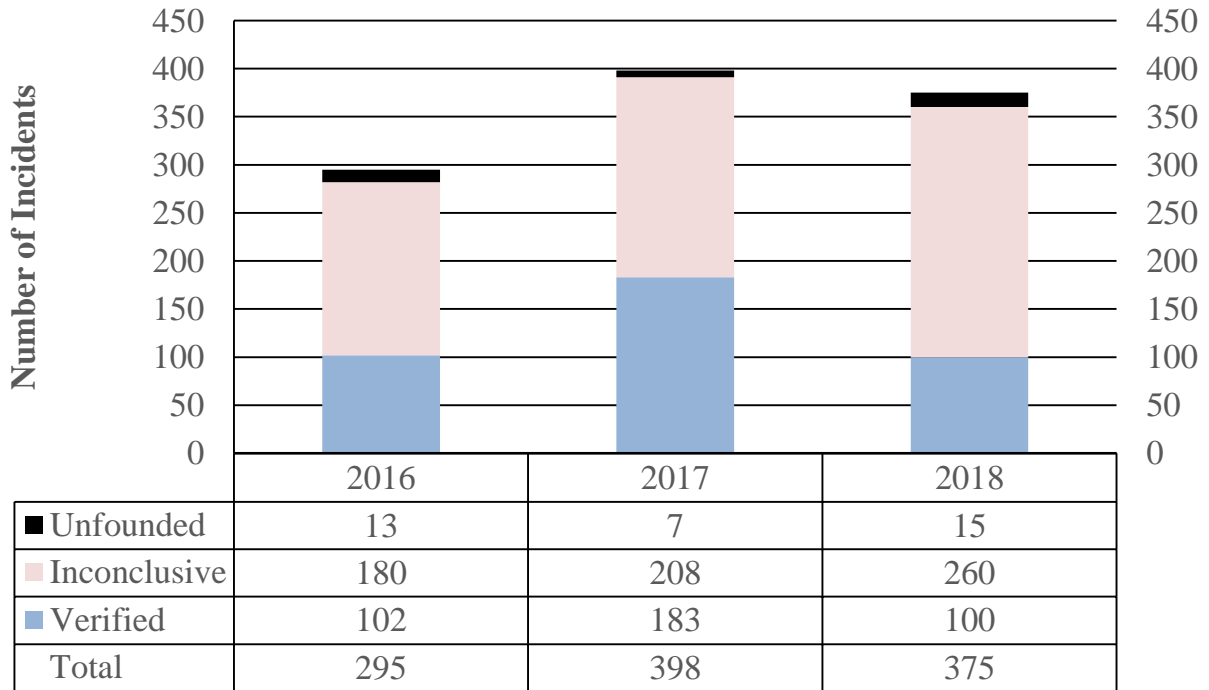
Nothing in the hate crimes statutes may be construed to infringe on the speech of a religious leader or other individual during peaceable activity intended to express the leader's or individual's religious beliefs or convictions.

Background: The Judiciary advises that 30 violations were filed in the District Court and 20 violations were filed in the circuit courts in fiscal 2019 for hate crimes under Title 10, Subtitle 3 of the Criminal Law Article. The Maryland State Commission on Criminal Sentencing Policy advises that it received information on six individuals sentenced to six total counts of hate crimes in the State's circuit courts during fiscal 2019.

According to a fall 2019 publication by the Federal Bureau of Investigation (FBI), law enforcement agencies reported 7,120 bias-motivated criminal incidents nationwide, an approximate 1% decrease compared to the 7,175 incidents reported in 2018. The FBI received information on 49 criminal incidents from 20 participating agencies (cities, counties, colleges, police departments, *etc.*) in Maryland. The remaining 135 participating agencies indicated no incidents of hate crime for the quarters for which they submitted reports during 2018.

In September 2019, the Department of State Police (DSP) published the *State of Maryland 2018 Hate/Bias Report*. According to the report, 375 hate/bias incidents were reported by law enforcement agencies in the State to DSP during calendar 2018, representing a 6% decrease from the 398 incidents reported in calendar 2017. Of the 375 incidents reported in 2018, 100 were verified to be motivated by bias, 260 were inconclusive regarding motivation, and 15 were determined to be unfounded. The data in DSP's report includes incidents that may or may not be considered criminal activity; the FBI data is limited to hate/bias-based crimes. **Exhibit 1** contains DSP hate/bias incident data for 2016 through 2018.

Exhibit 1
Hate/Bias Incidents Reported by Law Enforcement Agencies to DSP
2016-2018



DSP: Department of State Police

Source: *State of Maryland 2018 Hate/Bias Report*

State Expenditures: General fund expenditures for the Judiciary increase by \$74,234 in fiscal 2021 only for computer reprogramming. Additional general fund expenditures may be incurred depending on how the bill is implemented, as discussed below.

The Judiciary advises that in order to comply with the bill, its computer systems need to be reprogrammed to track compliance with the bill’s educational requirement by individuals convicted of hate crimes. Other changes to the judicial sentencing process can be accomplished with existing resources.

The bill does not address implementation of the education requirement, including who must provide the required educational instruction program. If a State-funded entity, such as the Judiciary or the Department of Public Safety and Correctional Services, is required to

develop and/or provide the educational instruction, then additional State expenditures may be incurred.

Additional Information

Prior Introductions: None.

Designated Cross File: SB 989 (Senators Hettleman and Lee) - Judicial Proceedings.

Information Source(s): Maryland Commission on Civil Rights; Maryland State Commission on Criminal Sentencing Policy; Judiciary (Administrative Office of the Courts); Office of the Public Defender; Maryland State's Attorneys' Association; Department of Public Safety and Correctional Services; Department of State Police; Federal Bureau of Investigation; Department of Legislative Services

Fiscal Note History: First Reader - February 7, 2020
mr/aad

Analysis by: Donovan A. Ham

Direct Inquiries to:
(410) 946-5510
(301) 970-5510