

Department of Legislative Services
 Maryland General Assembly
 2024 Session

FISCAL AND POLICY NOTE
Third Reader

House Bill 1041
 Judiciary

(Delegate Cardin, *et al.*)

Judicial Proceedings

Criminal Law - Hate Crimes - Religion and Disability

This bill incorporates the definition of “disability” under the federal Americans with Disabilities Act into the State’s hate crimes statutes (Title 10, Subtitle 3 of the Criminal Law Article). By adding religion as a specified motivation, the bill expands § 10-304 of the Criminal Law Article (hate crimes – commission of a crime or destruction of property) to prohibit a person from engaging in specified acts while motivated either in whole or in substantial part by another person’s or group’s religion.

Fiscal Summary

State Effect: General fund expenditures for the Judiciary increase by \$4,600 in FY 2025 only for one-time programming costs, as discussed below. Otherwise, the bill is not expected to materially affect State finances or operations.

(in dollars)	FY 2025	FY 2026	FY 2027	FY 2028	FY 2029
Revenues	\$0	\$0	\$0	\$0	\$0
GF Expenditure	4,600	0	0	0	0
Net Effect	(\$4,600)	\$0	\$0	\$0	\$0

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

Local Effect: The bill is not expected to materially affect local government operations or finances.

Small Business Effect: None.

Analysis

Bill Summary/Current Law:

Hate Crimes – Title 10, Subtitle 3 of the Criminal Law Article

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 (hate crimes – commission of a crime or destruction of property), 10-305 (damage to an associated building), and 10-305.1 (prohibition on use of item or symbol to threaten or intimidate).

For purposes of this subtitle, the bill incorporates the definition of disability in the federal Americans with Disabilities Act of 1990 (federal ADA), 42 U.S.C. § 12102. That statute defines “disability” as (1) a physical or mental impairment that substantially limits one or more of the major life activities of an individual; (2) a record of such an impairment; or (3) being regarded as having such an impairment.

Under the federal ADA, an individual meets the requirement of “being regarded as having such an impairment” if the individual establishes that they have been subjected to an action prohibited under the Act because of an actual or perceived physical or mental impairment whether or not the impairment limits or is perceived to limit a major life activity. However, this does not apply to impairments that are transitory and minor. A transitory impairment is an impairment with an actual or expected duration of six months or less.

Section 10-304 of the Criminal Law Article (Hate Crimes – Commission of a Crime or Destruction of Property)

Under § 10-304 of the Criminal Law Article, a person may not engage in specified acts while motivated either in whole or in substantial part by another person's or group's race, color, religious beliefs, sexual orientation, gender, gender identity, disability, or national origin, or because another person or group is homeless. The bill adds another person's or group's religion to the list of specified motivations under this provision.

The specified acts, which remain unchanged by the bill, are:

- commit a crime or attempt or threaten to commit a crime against that person or group;
- deface, damage, or destroy, or attempt or threaten to deface, damage, or destroy the real or personal property of that person or group;
- burn or attempt or threaten to burn an object on the real or personal property of that person or group; or

- make or cause to be made a false statement, report, or complaint to specified law enforcement officers about that person or group with the intent to deceive and to cause an investigation or other action to be taken as a result of the statement, report, or complaint, in violation of § 9-501 of the Criminal Law Article (making a false statement to a law enforcement officer).

State Fiscal Effect: The Judiciary advises that implementation of the bill requires \$4,586 for one-time programming costs; additional expenses may be incurred for training. The Department of Legislative Services (DLS) advises that any related training costs are likely minimal and can be paid for with the existing budgeted resources of the Judiciary.

While it does not cite any specific data or projections, the Office of the Public Defender (OPD) advises that the addition of “religion” to the hate crimes statute may result in increased caseloads and costs. DLS advises that given the low number of cases likely to be affected by the bill, OPD can accommodate the bill with existing budgeted resources.

According to the Department of State Police’s *2022 Hate Bias Report*, there were 105 hate bias incidents in the State motivated by religion during calendar 2022; 18 of these incidents were verified according to specified criteria. During calendar 2022, 13 hate bias incidents motivated by religion were closed by arrest. The Department of Public Safety and Correctional Services advises that during fiscal 2023, the Division of Corrections conducted zero intakes and the Division of Parole and Probation opened 20 cases related to violations of § 10-304 of the Criminal Law Article.

Additional Information

Recent Prior Introductions: Similar legislation has not been introduced within the last three years.

Designated Cross File: None.

Information Source(s): Baltimore, Charles, and Howard counties; Maryland State Commission on Criminal Sentencing Policy; Judiciary (Administrative Office of the Courts); Office of the Public Defender; Department of Legislative Services

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