

Department of Legislative Services
Maryland General Assembly
2008 Session

FISCAL AND POLICY NOTE
Revised

House Bill 41
Judiciary

(Delegate Ramirez)

Judicial Proceedings

Crimes - Hate Crimes - Use of a Noose or Swastika to Threaten or Intimidate

This bill prohibits a person from affixing, erecting, or placing a noose or swastika on the property of another without authorization, with the intent to threaten or intimidate any person or group of persons. A person who violates this provision is guilty of a misdemeanor and is subject to applicable maximum penalties of three years imprisonment and/or a \$5,000 fine.

Fiscal Summary

State Effect: Potential minimal increase in general fund revenues and expenditures if the bill results in additional prosecutions.

Local Effect: Potential increase in revenues and expenditures if additional people are prosecuted under the provisions of this bill.

Small Business Effect: None.

Analysis

Current Law: A person may not deface, damage, destroy, or attempt to deface, damage, or destroy real or personal property that is owned, leased, or used by a religious entity or for any religious purpose. A person may not, by force or the threat of force, obstruct or attempt to obstruct the free exercise of religious beliefs.

Because of another's race, color, religious beliefs, sexual orientation, or national origin, a person may not:

- commit a crime against another person;
- damage the real or personal property of another person;
- deface, damage, or destroy, or attempt to deface, damage, or destroy the real or personal property of another person;
- burn or attempt to burn an object on the real or personal property of another person; *or*
- commit a hate crime that involves a separate crime that is a felony or that results in the death of the victim.

The prohibition against property defacement, damage, or destruction includes real or personal property connected to public or private buildings • because a person of a particular race, color, religious belief, sexual orientation, or national origin is associated with the building; • or if there is evidence that exhibits animosity against a person or group due to the race, color, religious beliefs, sexual orientation, or national origin of that person or group.

If a violation of these provisions 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 results in the death of a victim, the violator is subject to imprisonment for up to 20 years, and/or a fine of up to \$20,000. For violations not involving a separate felony, the person is guilty of a misdemeanor and is subject to imprisonment for up to 3 years, and/or a maximum fine of \$5,000.

Background: According to the Southern Poverty Law Center, which tracks the incidences of hate crimes, the number of noose hangings increased markedly from fewer than a dozen cases annually to close to 50 incidents since September 2006 in the aftermath of what has become known as the “Jena 6” incident.

Since the Jena 6 incident, nooses have been found in front of schools, colleges and universities, a Coast Guard office, hospitals, retail establishments, construction sites, and police stations. Historically, the noose has been the archetypal symbol of lynching and racial intimidation in the United States. From the 1880s to the 1960s, nearly 5,000 men and women were lynched in this country. More than 70% of the lynching victims were African-American. As recently as September 2007, a noose was found hanging from a tree near the black student center at the University of Maryland, College Park. In December 2007, two employees of the town of Riverdale Park in Prince George’s County were suspended for hanging a noose in a town building. The noose was found dangling from a television in an employee lounge at the town’s Department of Public Works.

According to the FBI, of the 9,080 hate crime offenses reported nationally in 2006, 4,737 were racially motivated and 1,597 were motivated by religious hatred. Of the racially motivated crimes, 66.2% or 3,136 were motivated by animus against African Americans and 21.3% or 1,009 were motivated by animus against whites. Of the 1,597 religious offenses, 64.3% or 1,027 were motivated by anti-Jewish bias. Crimes against property comprised 39.6% or 3,595 of the reported crimes and 2,912 of those crimes involved property destruction, damage, and vandalism. A total of 2,568 intimidation crimes were reported nationwide during the same period. In Maryland, 212 hate crime incidents were reported for 2006.

Additional Information

Prior Introductions: None.

Cross File: None.

Information Source(s): Judiciary (Administrative Office of the Courts), Department of Public Safety and Correctional Services, Federal Bureau of Investigation, American Civil Liberties Union, Southern Poverty Law Center, *The New York Times*, *The Washington Post*, cnn.com, National Institute of Justice, Department of Legislative Services

Fiscal Note History: First Reader - January 14, 2008
ncs/jr Revised - House Third Reader - March 22, 2008

Analysis by: Karen D. Morgan

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