

Department of Legislative Services
Maryland General Assembly
2010 Session

FISCAL AND POLICY NOTE

House Bill 1218

(Delegate Ramirez, *et al.*)

Judiciary

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 a building or real 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 minimal 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.

A person may not deface, damage, or destroy; attempt to deface, damage, or destroy; burn or attempt to burn an object on, or damage the real or personal property connected to a public or private building because a person of a particular race, color, religious

belief, sexual orientation, gender, disability, national origin, or homeless status 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, gender, disability, national origin, or homeless status of that person or group.

Because of another's race, color, religious beliefs, sexual orientation, gender, disability, national origin, or homeless status, 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.

If a violation of these provisions involves a separate felony, the violator is guilty of a felony and is subject to maximum penalties of 10 years imprisonment and/or a fine of \$10,000. If a violation results in the death of a victim, the violator is subject to maximum penalties of 20 years imprisonment and/or a fine of \$20,000. For violations not involving a separate felony, the person is guilty of a misdemeanor and is subject to maximum penalties of three years imprisonment and/or a fine of \$5,000.

Background: According to the Southern Poverty Law Center, which tracks the incidences of hate crimes, as of fall 2007, 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. In February 2010, a noose was found hanging in the library of the University of California San Diego. In 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 Federal Bureau of Investigation, of the 9,168 hate crime offenses reported nationally in 2008, 4,704 were racially motivated and 1,606 were motivated by religious hatred. Of the racially motivated crimes, 72.6% or 3,413 were motivated by animus against African Americans and 17.3% or 812 were motivated by animus against whites. Of the 1,606 religious offenses, 65.7% or 1,055 were motivated by anti-Jewish bias. Crimes against property comprised 39.3% or 3,608 of the reported crimes and 2,970 of those crimes involved property destruction, damage, and vandalism. A total of 2,704 intimidation crimes were reported nationwide during the same period. In Maryland, 100 hate crime incidents were reported for 2008.

Additional Information

Prior Introductions: HB 1201 of 2009 passed the House and received a favorable report by the Senate Judicial Proceedings Committee; however, no further action was taken. HB 41 of 2008 passed the house and was heard by the Senate Judicial Proceedings Committee, but no further action was taken. A similar bill, HB 80 of 2008 received an unfavorable report from the House Judiciary Committee.

Cross File: None.

Information Source(s): Carroll, Cecil, Harford, Montgomery, and St. Mary's counties; Commission on Criminal Sentencing Policy; Judiciary (Administrative Office of the Courts); Department of State Police; Office of the Public Defender; Department of Public Safety and Correctional Services; State's Attorneys' Association; National Institute of Justice; Federal Bureau of Investigation; American Civil Liberties Union; Southern Poverty Law Center; *The New York Times*; *The Washington Post*; cnn.com; 10 news.com; Department of Legislative Services

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