

Department of Legislative Services  
Maryland General Assembly  
2017 Session

FISCAL AND POLICY NOTE  
First Reader

House Bill 540  
Judiciary

(Delegate Kramer, *et al.*)

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Hate Crimes - Civil Remedy

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This bill authorizes a person who is aggrieved by a violation of the State's hate crime laws to bring a civil action against the person or persons who committed the violation and authorizes a court to award a variety of specified remedies.

The bill applies prospectively to causes of action arising on or after the bill's October 1, 2017 effective date.

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Fiscal Summary

**State Effect:** Any increase in District Court proceedings as a result of the bill can be handled with existing resources.

**Local Effect:** Any increase in circuit court proceedings as a result of the bill can be handled with existing resources.

**Small Business Effect:** Potential minimal.

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Analysis

**Bill Summary:** The court may issue an injunction to prevent or restrain a violation of the State's hate crime laws and award the following: (1) economic damages and any other pecuniary loss sustained by the plaintiff that was proximately caused by the hate crimes violation; (2) noneconomic damages, including pain and suffering, emotional distress, mental anguish, loss of enjoyment, loss of companionship, services, and consortium, and other nonpecuniary loss sustained by the plaintiff that was proximately caused by the hate crimes violation; (3) punitive damages; and (4) reasonable attorney's fees to the prevailing

party. The availability of a civil remedy does not affect any legal or equitable right or remedy otherwise provided by law.

**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, 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.

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

- commit a crime or attempt to 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 imprisonment for up to 10 years and/or a fine of up to \$10,000. If a violation 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. For violations that do not involve a separate felony or do not result in the death of the victim, 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.

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 building that is publicly or privately owned, leased, or used (1) because a person 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, or national origin of that group or

because that person or group is homeless. Violators are guilty of a misdemeanor, punishable by imprisonment for up to three years and/or a maximum fine of \$5,000.

**Background:** According to the Judiciary, there were a total of 51 violations of the State's hate crime laws under Title 10, Subtitle 3 of the Criminal Law Article in the District Court during fiscal 2016. There were 22 violations of these prohibitions in the circuit courts during fiscal 2016.

According to the Federal Bureau of Investigation's *Uniform Crime Report* for 2015 (the latest year for which statistics are available), 43 hate-based incidents were reported in Maryland.

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### **Additional Information**

**Prior Introductions:** HB 562 of 2009 received a hearing in the House Judiciary Committee. No further action was taken on the bill.

**Cross File:** SB 947 (Senator Smith) – Judicial Proceedings.

**Information Source(s):** Judiciary (Administrative Office of the Courts); Federal Bureau of Investigation; Department of Legislative Services

**Fiscal Note History:** First Reader - February 9, 2017  
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