

Department of Legislative Services  
Maryland General Assembly  
2019 Session

FISCAL AND POLICY NOTE  
Third Reader - Revised

House Bill 4  
Judiciary

(Delegate Chang)

Judicial Proceedings

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**Crimes – Hate Crimes – Use of an Item or a Symbol to Threaten or Intimidate**

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This bill prohibits a person from placing or inscribing an item or a symbol, including an actual or depicted noose or swastika, whether temporary or permanent, on any real or personal property without authorization, with the intent to threaten or intimidate any person or group of persons. Violators are guilty of a misdemeanor, punishable by imprisonment for up to three years and/or a \$5,000 maximum fine.

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**Fiscal Summary**

**State Effect:** Potential minimal increase in general fund revenues and expenditures due to the bill's penalty provisions if the bill results in additional prosecutions.

**Local Effect:** Potential minimal increase in local revenues and expenditures due to the bill's penalty provisions if the bill results in additional prosecutions.

**Small Business Effect:** None.

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**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, 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.

*Section 10-303 (Obstructing Exercise of Religious Beliefs)*

A person may not, by force or the threat of force, obstruct or attempt to obstruct the free exercise of 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, or national origin:

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

*Penalties*

In general, an individual 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:** According to a November 2018 publication by the Federal Bureau of Investigation (FBI), law enforcement agencies reported 7,175 bias-motivated criminal incidents nationwide, a 17% increase compared to the 6,121 incidents reported in 2016. The FBI received information on 48 criminal incidents from 18 participating agencies (cities, counties, colleges, police departments, etc.) in Maryland. The remaining 136 participating agencies indicated no incidents of hate crime for the quarters for which they submitted reports during 2017. According to news reports following an October 2018 shooting in which 11 people were killed inside a Pittsburgh synagogue, the U.S. Department of Justice is studying how hate crimes are reported.

In September 2018, the Department of State Police (DSP) published the *State of Maryland 2017 Hate/Bias Report*. According to the report, 398 hate/bias incidents were reported to law enforcement agencies in the State during calendar 2017, representing a 34.9% increase from the 295 incidents reported in calendar 2016. Of the 398 incidents in 2017, 183 were verified to have been motivated by bias, 208 were inconclusive regarding motivation, and 7 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.

The Department of Public Safety and Correctional Services advises that it conducted intake on one inmate sentenced to a State correctional facility for a conviction under § 10-304 of the Criminal Law Article and no intakes for the other hate crimes offenses during fiscal 2018.

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## **Additional Information**

**Prior Introductions:** Similar bills have been introduced in prior sessions. HB 1695 of 2018 passed the House with amendments and passed the Senate with amendments, but no further action was taken. HB 1218 of 2010 passed the House and passed second reading in the Senate with amendments. The bill was special ordered in the Senate, and no further

action was taken on the bill prior to the conclusion of the legislative session. Similar bills were also introduced in the 2008 and 2009 sessions.

**Cross File:** None.

**Information Source(s):** 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; *The Baltimore Sun*; Department of Legislative Services

**Fiscal Note History:** First Reader - January 10, 2019  
sb/kdm Third Reader - March 18, 2019  
Revised - Amendment(s) - March 18, 2019  
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