Department of Legislative Services
Maryland General Assembly
2021 Session

FISCAL AND POLICY NOTE
Third Reader - Revised

House Bill 418   (Delegate Guyton)

Ways and Means   Education, Health, and Environmental Affairs

County Boards of Education - Symbols of Hate - Policy

This bill requires each county board of education to adopt a policy prohibiting the use or display of a symbol of hate on school grounds or in any program, service, school building or activity funded in whole or in part by State funds. The policy must prohibit symbols of hate on clothing, book bags, folders, and similar items. The policy may not prohibit a symbol of hate from being used as an example in a course of study. The policy must provide a student who displays a symbol of hate an opportunity to remove or cover up the symbol of hate. Each county board must develop educational materials about the policy, including consequences for violations, and distribute those materials to each public school and all school employees and students. The bill defines "symbol of hate" as a symbol, an image or an object that expresses animus towards another individual on the basis of race, color, religion, gender identity, sexual orientation, disability, or national origin that may be reasonably forecast to cause a disruption and may include, subject to a reasonable forecast of disruption, a noose, swastika, and confederate flag. **The bill takes effect July 1, 2021.**

Fiscal Summary

State Effect: None.

Local Effect: Local school boards can meet the requirements of the bill with existing resources. No effect on revenues.

Small Business Effect: None.

<center>**Analysis**</center>

Current Law: Currently, no State law mandates that county boards of education adopt policies relating to symbols of hate, though some school districts already address symbols of hate through current student codes of conduct.

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, or destroy, or attempt or threaten to deface, damage, or destroy, personal or real 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 threat of force, obstruct or attempt to obstruct another in the free exercise of that person's religious beliefs.

Section 10-304 (Harassment or Destruction of Property)

A person may not engage in the following acts if they are motivated either in whole or substantially in part by another person's or group's race, color, religious beliefs, sexual orientation, gender, disability, or national origin or because another person or group is homeless:

- commit a crime or attempt or threaten to commit a crime against another person or group;
- deface, damage, or destroy, or attempt or threaten to deface, damage, or destroy the real or personal property of another person or group;
- burn or attempt or threaten to burn an object on the real or personal property of another person or group; or
- commit any of these acts when the act 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 or threaten to deface, damage, or destroy; burn or attempt or threaten 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 or group of a particular race, color, religious belief, sexual orientation, gender, disability, 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, disability, 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.

Section 10-305.1

A person may not place or inscribe an item or a symbol, including an actual or depicted noose or swastika, whether temporary or permanent, on any real or personal property, public or private, without the express permission of the owner or specific persons, with the intent to threaten or intimate 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 fine.

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.

Additional Information

Prior Introductions: None.

Designated Cross File: None.

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