

Department of Legislative Services
Maryland General Assembly
2021 Session

FISCAL AND POLICY NOTE
First Reader - Revised

Senate Bill 99

(Senator Bailey)

Judicial Proceedings

Hate Crimes - Law Enforcement Officers and First Responders

This bill adds law enforcement officers and first responders to the protected classes under specified State hate crime statutes. The bill defines a “first responder” as a person engaged in providing emergency medical care or rescue services, including a firefighter, an emergency medical technician, or a rescue squad member. The bill incorporates the definition of “law enforcement officer” contained in § 3-201 of the Criminal Law Article.

Fiscal Summary

State Effect: Minimal increase in general fund revenues and expenditures due to the bill’s expanded application of existing penalties.

Local Effect: Minimal increase in local revenues and expenditures due to the bill’s expanded application of existing penalties.

Small Business Effect: None.

Analysis

Bill Summary/Current Law:

Section 10-304 (Hate Crime – Harassment or Destruction of Property)

Under current law, a person may not engage in the following acts motivated either in whole or in substantial part because another person or group is homeless or because of another person’s or group’s race, color, religious beliefs, sexual orientation, gender, disability, or national origin:

- 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.

The bill adds law enforcement officers and first responders to the protected classes under this provision.

Section 10-305 (Damage to an Associated Building)

Under current law, 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.

In addition to incorporating law enforcement officers and first responders, the bill alters this provision to include a person's or group's relation to a building as having contacts or being associated with the building.

Penalties

Under current law, in general, a person 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 guilty of a felony and is subject to imprisonment for up to 20 years and/or a fine of up to \$20,000.

First Amendment Rights

Under current law, 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.

Law Enforcement Officer

Section 3-201 of the Criminal Law Article defines a "law enforcement officer" as an individual who, in an official capacity, is authorized by law to make arrests and is a member of specified law enforcement units. "Law enforcement officer" includes a correctional officer at a correctional facility and an officer employed by the Washington Metropolitan Area Transit Authority Metro Transit Police who is subject to specified jurisdictional limitations.

State Revenues: General fund revenues increase minimally as a result of the bill's expanded application of existing monetary penalties from cases heard in the District Court.

State Expenditures: General fund expenditures increase minimally as a result of the bill's expanded application of existing incarceration penalties due to more people being committed to State correctional facilities and increased payments to counties for reimbursement of inmate costs. The number of people convicted under the bill is expected to be minimal.

Persons serving a sentence longer than 18 months are incarcerated in State correctional facilities. Currently, the average total cost per inmate, including overhead, is estimated at \$3,900 per month. Persons serving a sentence of one year or less in a jurisdiction other than Baltimore City are sentenced to local detention facilities. For persons sentenced to a term of between 12 and 18 months, the sentencing judge has the discretion to order that the sentence be served at a local facility or a State correctional facility. The State provides assistance to the counties for locally sentenced inmates and for (1) inmates who are sentenced to and awaiting transfer to the State correctional system; (2) sentenced inmates confined in a local detention center between 12 and 18 months; and (3) inmates who have been sentenced to the custody of the State but are confined in or who receive reentry or other prerelease programming and services from a local facility.

The State does not pay for pretrial detention time in a local correctional facility. Persons sentenced in Baltimore City are generally incarcerated in State correctional facilities. The Baltimore Pretrial Complex, a State-operated facility, is used primarily for pretrial detentions.

The Department of State Police can handle the bill's requirements with existing budgeted resources. Because individuals charged with hate crimes under the bill will likely be charged with additional crimes, the bill is not likely to materially affect the caseloads of the Office of the Public Defender.

Local Revenues: Revenues increase minimally as a result of the bill's expanded application of existing monetary penalty provisions from cases heard in the circuit courts.

Local Expenditures: Expenditures increase minimally as a result of the bill's expanded application of existing incarceration penalties. Counties pay the full cost of incarceration for people in their facilities for the first 12 months of the sentence. Per diem operating costs of local detention facilities have ranged from approximately \$40 to \$170 per inmate in recent years.

Additional Information

Prior Introductions: SB 120 of 2017, a similar bill, received a hearing in the Senate Judicial Proceedings Committee, but no further action was taken.

Cross File: HB 286 (Delegates Hartman and Long) - Judiciary.

Information Source(s): Maryland Institute for Emergency Medical Services Systems; Baltimore City; Harford and Montgomery counties; Maryland State Commission on Criminal Sentencing Policy; Judiciary (Administrative Office of the Courts); Office of the Public Defender; Maryland State's Attorneys' Association; University System of Maryland; Morgan State University; St. Mary's College of Maryland; Department of Natural Resources; Department of Public Safety and Correctional Services; Department of State Police; Maryland Department of Transportation; Department of Legislative Services

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