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By: Delegates Rosenberg, The Speaker (Administration), Hixson, Barve,
Barkley, Bronrott, Brown, Cane, Cadden, Carlson, Cryor, Doory,
Franchot, Frush, Goldwater, Grosfeld, Hammen, Heller, Howard,
Hubbard, Hurson, A. Jones, V. Jones, Kagan, Kopp, Mandel, Menes,
McIntosh, Moe, Nathan-Pulliam, Pendergrass, Pitkin, Petzold, Proctor,
Rawlings, Shriver, Stern, Turner, Hecht, Marriott, and Swain,
and Dembrow

Introduced and read first time: February 12, 1999

Assigned to: Judiciary

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Committee Report: Favorable with amendments

House action: Adopted

Read second time: March 27, 1999

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CHAPTER

#### 1 AN ACT concerning

### 2 Crimes - Gender and Sexual Orientation Crimes - Prohibitions

- 3 FOR the purpose of prohibiting a person from committing certain crimes against
- 4 another person or institution, or damaging the property of another person or
- 5 institution, because of that person's gender or sexual orientation or because of
- 6 the institution's contacts or associations with a person or group of a particular
- 7 gender or sexual orientation; defining certain terms a certain term; and
- 8 generally relating to the prohibition of crimes against persons based on gender
- 9 or sexual orientation.
- 10 BY repealing and reenacting, with amendments,
- 11 Article 27 Crimes and Punishments
- 12 Section 470A
- 13 Annotated Code of Maryland
- 14 (1996 Replacement Volume and 1998 Supplement)

15 Preamble

- 16 WHEREAS, Chief Justice Rehnquist wrote for a unanimous Supreme Court in
- 17 Wisconsin v. Mitchell that a defendant's motive for committing a crime has
- 18 traditionally been an important factor in sentencing; and

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|          | Amendment of the C                     | <del>onstitutio</del>      | 's abstract beliefs, which are protected by the First<br>on of the United States, cannot be admitted into<br>levant to criminal conduct; and |
|----------|--|----------------------------|--|
| 4<br>5   |  |                            | d crimes are more likely to provoke retaliatory crimes,<br>ims, and incite community unrest; and   |
|          |  | of the pub                 | ng standing tradition in the law that crimes "which are plic safety and happiness" should be the most severely                               |
| 9<br>10  | ~                                      |                            | CTED BY THE GENERAL ASSEMBLY OF s of Maryland read as follows:   |
| 11       |  |                            | Article 27 - Crimes and Punishments  |
| 12       | 470A.                                  |                            |  |
| 13       | (a) (1)                                | In this s                  | section the following words have the meanings indicated.   |
| _        | THREATEN A PER                         | SON UN                     | SS" MEANS, WITHOUT LAWFUL AUTHORITY, TO KNOWINGLY IDER CIRCUMSTANCES THAT WOULD REASONABLY CREATE THAT THE THREAT WILL BE CARRIED OUT TO:    |
| 17       |  | <del>(I)</del>             | CAUSE BODILY INJURY TO THE PERSON;   |
| 18       |  | <del>(II)</del>            | CAUSE PHYSICAL DAMAGE TO THE PROPERTY OF THE PERSON  |
| 19<br>20 | RESTRAINT; OR                          | <del>(III)</del>           | SUBJECT THE PERSON TO ANY PHYSICAL CONFINEMENT OR  |
| 21<br>22 | THE PERSON'S PH                        | <del>(IV)</del><br>IYSICAL | DO ANY ACT WHICH IS INTENDED TO SUBSTANTIALLY HARMOR MENTAL HEALTH OR SAFETY.  |
| 23<br>24 | ( <del>3)</del> used building, include | ( <u>2)</u><br>ding:       | "Institution" means a publicly or privately owned, leased, or  |
| 25       |  | (i)                        | A school;  |
| 26       |  | (ii)                       | A library;   |
| 27       |  | (iii)                      | A recreation center;   |
| 28       |  | (iv)                       | A meeting hall; or   |
| 29       |  | (v)                        | A cemetery.  |
| 30       | <del>[</del> (3) <del>]</del>          | <del>(4)</del>             | "Religious real property" includes:  |
| 31       |  | (i)                        | A church, synagogue, or other place of worship;  |

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| 1  |  | (ii)  | A cemetery;   |
|--|--|---|---|
| 2 3  | structure, or other real   | (iii)<br>I property   | A religious school, educational facility, community center, used for any religious purpose; and   |
| 4<br>5   | through (iii) of this pa   | (iv)<br>ragraph.  | The grounds adjacent to the property described in items (i)   |
| 6  | <del>(5)</del>   | <u>(4)</u>  | "SEXUAL ORIENTATION" MEANS:   |
| 7<br>8   | FEMALE HOMOSEX   | <del>(I)</del><br>XUALIT`   | THE IDENTIFICATION OF AN INDIVIDUAL AS TO MALE OR Y, HETEROSEXUALITY, OR BISEXUALITY <del>; OR</del>  |
|  | · · · · · · · · · · · · · · · · · · ·  |   | HAVING OR BEING PERCEIVED AS HAVING AN IDENTITY,<br>AL CHARACTERISTIC NOT TRADITIONALLY ASSOCIATED<br>IOLOGICAL SEX OR SEX AT BIRTH.  |
| 12   | (b) A person   | n may no  | t:  |
| 13<br>14   |  |   | damage, or destroy or attempt to deface, damage, or destroy erty that is owned, leased, or used by a religious entity;  |
| 15<br>16   | (2) the free exercise of the   | Obstruct<br>nat person  | t, or attempt to obstruct by force or threat of force, a person in 's religious beliefs;  |
| 17<br>18   | (3) personal property of:  | Harass o  | or commit a crime upon a person or damage the real or   |
| 19   |  |   |   |
| -  | <del>GENDER,</del> SEXUAL  | (i)<br>ORIENT   | A person because of that person's race, color, religious beliefs, ΓΑΤΙΟΝ, or national origin; or  |
| -  | <del>GENDER,</del> SEXUAL  |   |   |
| <ul><li>20</li><li>21</li><li>22</li><li>23</li></ul>                |  | ORIENT  (ii)  particular  | An institution:  1. Because of the institution's contacts or association with a race, color, religious belief, GENDER, SEXUAL   |
| 20<br>21<br>22<br>23<br>24<br>25<br>26<br>27                         | person or group of a portanton, or part of the person cor  | ORIENT  (ii)  particular national of the committing                         | An institution:  1. Because of the institution's contacts or association with a race, color, religious belief, GENDER, SEXUAL   |
| 20<br>21<br>22<br>23<br>24<br>25<br>26<br>27<br>28<br>29             | person or group of a p<br>ORIENTATION, or a<br>part of the person cor<br>person's or group's ra<br>national origin; or | ORIENT  (ii)  particular national committing ce, color,  Deface,            | An institution:  1. Because of the institution's contacts or association with a race, color, religious belief, GENDER, SEXUAL origin; or  2. Where there is evidence that exhibits animosity on the the act against a person or group because of that   |
| 20<br>21<br>22<br>23<br>24<br>25<br>26<br>27<br>28<br>29<br>30<br>31 | person or group of a position of the person corperson's or group's ranational origin; or  (4) burn or attempt to but   | ORIENT  (ii)  particular national of mmitting ce, color, rn any obtains (i) | An institution:  1. Because of the institution's contacts or association with a race, color, religious belief, GENDER, SEXUAL origin; or  2. Where there is evidence that exhibits animosity on the the act against a person or group because of that religious beliefs, GENDER, SEXUAL ORIENTATION, or damage, or destroy, attempt to deface, damage, or destroy, or |

23 October 1, 1999.

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1 1. Because of the institution's contacts or association with a person or group of a particular race, color, religious belief, GENDER, SEXUAL 3 ORIENTATION, or national origin; or 4 Where there is evidence that exhibits animosity on the 5 part of the person committing the act against a person or group because of that 6 person's or group's race, color, religious beliefs, GENDER, SEXUAL ORIENTATION, or 7 national origin. A person who violates the provisions of this section is subject to the 8 9 following penalties: 10 If the violation involves a separate crime that is a felony, the person 11 is guilty of a felony and upon conviction is subject to imprisonment for not more than 12 10 years, or a fine of not more than \$10,000, or both. (2) 13 If the violation involves a separate crime that is a felony and results 14 in death to a victim, the person is guilty of a felony and upon conviction is subject to 15 imprisonment for not more than 20 years, or a fine of not more than \$20,000, or both. 16 In all other cases, the person is guilty of a misdemeanor and upon 17 conviction is subject to imprisonment for not more than 3 years, or a fine of not more 18 than \$5,000, or both. 19 Prosecution of a person under this section does not preclude prosecution (d) 20 and imposition of penalties for any other crime in addition to any penalties imposed under this section. 22 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect