

Department of Legislative Services  
Maryland General Assembly  
1999 Session

FISCAL NOTE

House Bill 92 (Delegate Dembrow)

Judiciary

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Crimes - Sexual Orientation and Gender - Prohibitions

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This bill forbids a person from harassing or committing a crime upon a person or damaging the property of: (1) a person because of that person's gender or sexual orientation; or (2) an institution because of the institution's contacts or association with a person or group of a particular gender or sexual orientation, or where there is evidence that the person committing the act exhibits animosity against a person or group because of that person's or group's gender or sexual orientation.

If the violation involves a separate crime that is a felony, the violator is guilty of a felony and subject to imprisonment not to exceed ten years, or a fine not to exceed \$10,000, or both. If the violation involves a separate crime that is a felony and results in death to a victim, the violator is guilty of a felony and subject to imprisonment for not more than 20 years, or a fine not to exceed \$20,000, or both. In all other cases, violators are guilty of a misdemeanor and subject to imprisonment not to exceed three years, or a fine not to exceed \$5,000, or both.

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Fiscal Summary

**State Effect:** Minimal increase in general fund revenues and expenditures due to the bill's penalty provisions.

**Local Effect:** Minimal increase in revenues and expenditures due to the bill's penalty provisions.

**Small Business Effect:** None.

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Fiscal Analysis

**State Revenues:** General fund revenues could increase minimally as a result of the bill's

monetary penalty provisions from cases heard in the District Court.

**State Expenditures:** General fund expenditures could increase minimally as a result of the bill's incarceration penalties due to more people being committed to Division of Correction (DOC) facilities and increased payments to counties for reimbursement of inmate costs. The number of people convicted of this proposed crime and sentenced to more time is not expected to be significant. This expectation is based on the State's experience with race based hate crimes.

Persons serving a sentence longer than one year are incarcerated in DOC facilities. Currently, the average total cost per inmate, including overhead, is estimated at \$1,600 per month. This bill alone, however, should not create the need for additional beds, personnel, or facilities. The average variable cost of housing a new DOC inmate (food, medical care, etc.), excluding overhead, is \$275 per month. For illustrative purposes, under the bill's maximum incarceration penalty for the misdemeanor offense the average time served would be 18 months. Assuming the variable inmate costs of \$275 per month, State costs could increase by \$4,950 for each person imprisoned under the bill.

Persons serving a sentence of one year or less in a jurisdiction other than Baltimore City are sentenced to a local detention facility. The State reimburses counties for part of their incarceration costs, on a per diem basis, after a person has served 90 days. State per diem reimbursements for fiscal 2000 are estimated to range from \$8 to \$48 per inmate depending upon the jurisdiction. Persons sentenced to such a term in Baltimore City are generally incarcerated in a DOC facility. The Baltimore City Detention Center (BCDC), a State operated facility, is used primarily for pretrial detentions.

Some advocates argue that rape is always a hate crime under a gender motivated hate crime statute. If this were true, this bill could have a meaningful effect on State finances due to the bill's penalty provisions. However, this analysis assumes that certain rapes *can* be construed as hate crimes against women based on examination of their specific facts, but that rape does not necessarily constitute a hate crime. Just as rape can be the underlying offense for a racially motivated hate crime, it can be the underlying offense for a gender based hate crime. Similarly, murder can be the underlying offense to a gender-based hate crime, but specific facts must be proven to show that the offender was motivated by gender.

**Local Revenues:** Revenues could increase as a result of the bill's monetary penalty provisions from cases heard in the circuit courts.

**Local Expenditures:** Expenditures could increase as a result of the bill's incarceration penalties. Counties pay the full cost of incarceration for people in their facilities for the first

90 days of the sentence, plus part of the per diem cost after 90 days. Per diem operating costs of local detention facilities are expected to range from \$15 to \$80 per inmate in fiscal 2000.

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**Information Sources:** Department of Public Safety and Correctional Services (Division of Correction), Attorney General's Office, Judiciary, Public Defender

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Analysis by: Jo Ellan Jordan

Direct Inquiries to:

John Rixey, Coordinating Analyst

(410) 946-5510

(301) 970-5510