

Department of Legislative Services
Maryland General Assembly
2008 Session

FISCAL AND POLICY NOTE

Senate Bill 111
Judicial Proceedings

(Senator Mooney, *et al.*)

Judiciary

Hate Crimes - Prohibitions and Protected Classes - Homeless Persons and Groups

This bill expands the protected classes under existing hate crimes laws to include the homeless.

Fiscal Summary

State Effect: Potential minimal increase in general fund revenues and expenditures if the bill results in additional prosecutions.

Local Effect: Potential increase in revenues and expenditures if additional people are prosecuted under the provisions of this bill.

Small Business Effect: None.

Analysis

Bill Summary: The bill specifies that “homeless” means:

- lacking a fixed, regular, and adequate nighttime residence; or
- having a primary nighttime residence that is a supervised shelter designed for temporary living or a place not designated for or used by humans as a regular sleeping accommodation.

It establishes that because another is homeless, a person may not:

- commit a crime against another;
- deface, damage, or destroy the real or personal property of another;
- attempt to deface, damage, or destroy real or personal property;
- burn or attempt to burn an object on real or personal property of another; or
- commit a hate crime that involves a separate crime that is a felony, or that results in the death of the victim.

The prohibition against property defacement, damage, or destruction is expanded to include damage to real or personal property connected to public or private buildings because a homeless person or group is associated with the building or if there is evidence that exhibits animosity against a person or group because that person or group is homeless.

Current Law: 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. A person may not, by force or the threat of force, obstruct or attempt to obstruct the free exercise of religious beliefs.

Because of another's race, color, religious beliefs, sexual orientation, or national origin, a person may not:

- commit a crime against another person;
- damage the real or personal property of another person;
- deface, damage, or destroy, or attempt to deface, damage, or destroy the real or personal property of another person;
- burn or attempt to burn an object on the real or personal property of another person; or
- commit a hate crime that involves a separate crime that is a felony or that results in the death of the victim.

The prohibition against property defacement, damage, or destruction includes real or personal property connected to public or private buildings because a person of a particular race, color, religious belief, sexual orientation, or national origin is associated with the building or if there is evidence that exhibits animosity against a person or group due to the race, color, religious beliefs, sexual orientation, or national origin of that person or group.

If a violation of these provisions 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 results in the death of a victim, the violator is subject to imprisonment for up to 20 years, and/or a fine of up to \$20,000. For violations not involving a separate felony, the person is guilty of a misdemeanor and is subject to imprisonment for up to three years, and/or a maximum fine of \$5,000.

Background: In January 2006, hate crimes against the homeless gained national attention when two teenagers brutally beat three homeless men in Fort Lauderdale, Florida with baseball bats, killing one and seriously injuring the others. In calendar 2006 (the latest year for which information is available) the National Coalition for the Homeless (NCH) documented 142 crimes against homeless persons across the United States, including 20 deaths and 122 nonlethal attacks. The nonlethal attacks included five rapes and six instances of setting people on fire. According to NCH, a majority of the attacks against homeless persons are perpetrated by teens. Of known attackers, over 60% were between ages 13 and 19. Over 80% of those accused and convicted of attacks on homeless persons were under age 25. Young attackers cited boredom and thrill-seeking as motives.

NCH reports that from 1999 through 2006 there were 614 acts of violence against homeless men, women, and children, in 44 states and Puerto Rico, resulting in 189 deaths and 425 victims of nonlethal violence. In calendar 2006, one violent incident was reported in Maryland, taking place in Takoma Park, which resulted in injury to the victim. NCH reports that in addition to Maryland, expansion of hate crimes legislation to include homeless attacks has been considered in California, Florida, Massachusetts, Nevada, and Texas.

According to the *Uniform Crime Reports* for calendar 2006, (the latest year for which statistics are available) the FBI reports that 9,080 hate-based offenses occurred nationwide and 9,076 resulted from a single bias against race, religion, sexual orientation, ethnicity, nationality, or disability.

The FBI does not track the occurrences of crimes against homeless persons that are motivated by animus because of the person's homeless status.

Additional Information

Prior Introductions: This bill is a reintroduction of SB 160 or 2007, as amended, which passed the Senate and was heard by the House Judiciary Committee. This bill is similar

to SB 539 of 2006 as amended, which passed second reading in the Senate but failed on third reading.

Cross File: None.

Information Source(s): Judiciary (Administrative Office of the Courts), Department of Public Safety and Correctional Services, Federal Bureau of Investigation, National Coalition for the Homeless, *cnn.com*, Department of Legislative Services

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