

Department of Legislative Services
Maryland General Assembly
2009 Session

FISCAL AND POLICY NOTE

Senate Bill 731 (Senator Raskin)
Judicial Proceedings

Hate Crimes - Civil Remedy

This bill authorizes a person who is aggrieved by a violation of the State's hate crime laws to bring a civil action against the person or persons who committed the violation and authorizes a court to award a variety of specified remedies.

The bill applies prospectively to causes of action arising on or after the bill's October 1, 2009 effective date.

Fiscal Summary

State Effect: Any increase in District Court proceedings as a result of the bill can be handled with existing resources.

Local Effect: Any increase in circuit court proceedings as a result of the bill can be handled with existing resources.

Small Business Effect: Potential minimal.

Analysis

Bill Summary: The court may issue an injunction and award the following: (1) economic damages and any other pecuniary loss sustained by the plaintiff that was proximately caused by the hate crimes violation; (2) noneconomic damages, including pain and suffering, emotional distress, mental anguish, loss of enjoyment, loss of companionship, services, and consortium and other nonpecuniary loss sustained by the plaintiff that was proximately caused by the hate crimes violation; (3) punitive damages;

and (4) reasonable attorney's fees to the prevailing party. The availability of a civil remedy does not affect any legal or equitable right or remedy otherwise provided by law.

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.

A person may not deface, damage, or destroy; attempt to deface, damage, or destroy; burn or attempt to burn an object on, or damage the real or personal property connected to a public or private building 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.

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.

If a violation of these provisions involves a separate felony, the violator is guilty of a felony and is subject to maximum penalties of 10 years imprisonment and/or a fine of \$10,000. If a violation results in the death of a victim, the violator is subject to maximum penalties of 20 years imprisonment and/or a fine of \$20,000. For violations not involving a separate felony, the person is guilty of a misdemeanor and is subject to maximum penalties of three years imprisonment and/or a fine of \$5,000.

Background: According to the Federal Bureau of Investigation's *Uniform Crime Reports* for calendar 2007 (the latest year for which statistics are available), 150 hate-based incidents were reported in Maryland. According to the Anti-Defamation League, as of August 2008, hate crime laws in 31 states and the District of Columbia included provisions for civil actions. These states are: Arizona, California, Colorado, Connecticut, Florida, Georgia, Idaho, Illinois, Iowa, Louisiana, Maine, Massachusetts, Michigan, Minnesota, Missouri, Nebraska, Nevada, New Jersey, North Carolina, Ohio,

Oklahoma, Oregon, Pennsylvania, Rhode Island, South Dakota, Tennessee, Texas, Vermont, Virginia, Washington, and Wisconsin.

Additional Information

Prior Introductions: None.

Cross File: HB 562 (Delegate Kramer, *et al.*) - Judiciary.

Information Source(s): Judiciary (Administrative Office of the Courts), Anti-Defamation League, Federal Bureau of Investigation, Department of Legislative Services

Fiscal Note History: First Reader - February 25, 2009
ncs/kdm

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