

Department of Legislative Services
Maryland General Assembly
2020 Session

FISCAL AND POLICY NOTE
Third Reader - Revised

House Bill 917
Judiciary

(Delegate Wilson, *et al.*)

Judicial Proceedings

Criminal Law - Hate Crimes - Basis (2nd Lieutenant Richard Collins, III's Law)

This bill alters the basis on which a person may not commit the acts prohibited under § 10-304 of the Criminal Law Article (Hate Crime – Harassment or Destruction of Property).

Fiscal Summary

State Effect: Potential minimal increase in general fund revenues and expenditures due to the bill's alteration/clarification of the application of existing penalty provisions.

Local Effect: Potential minimal increase in local government revenues and expenditures due to the bill's alteration/clarification of the application of existing penalty provisions.

Small Business Effect: Minimal.

Analysis

Bill Summary/Current Law:

Section 10-304 (Harassment or Destruction of Property)

Under current law, a person may not engage in the following acts *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 alters the law to prohibit the commission of these acts if they are *motivated either in whole or in substantial part* by another person's or group's race, color, religious beliefs, sexual orientation, gender, disability, or national origin.

Penalties

In general, a person who violates this provision 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

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.

Background:

Collins Case

In May 2017, 2nd Lieutenant Richard Collins III was fatally stabbed while he was waiting at a bus stop on the University of Maryland, College Park campus.

The man who stabbed Collins was apprehended by police and later charged with first-degree murder and a hate crime under § 10-304 of the Criminal Law Article. Prosecutors in the case asserted that the murder was motivated by race and presented evidence to the jury related to the defendant's social media use and alleged racist images found on the defendant's phone. The court determined that the hate crime evidence was legally insufficient and dismissed the hate crime charge. The court acknowledged that while the evidence indicated the defendant's ideology, it did not show that race was the

actual motive for the stabbing. In December 2019, the defendant was found guilty of first-degree murder.

Fiscal 2019 Statistics

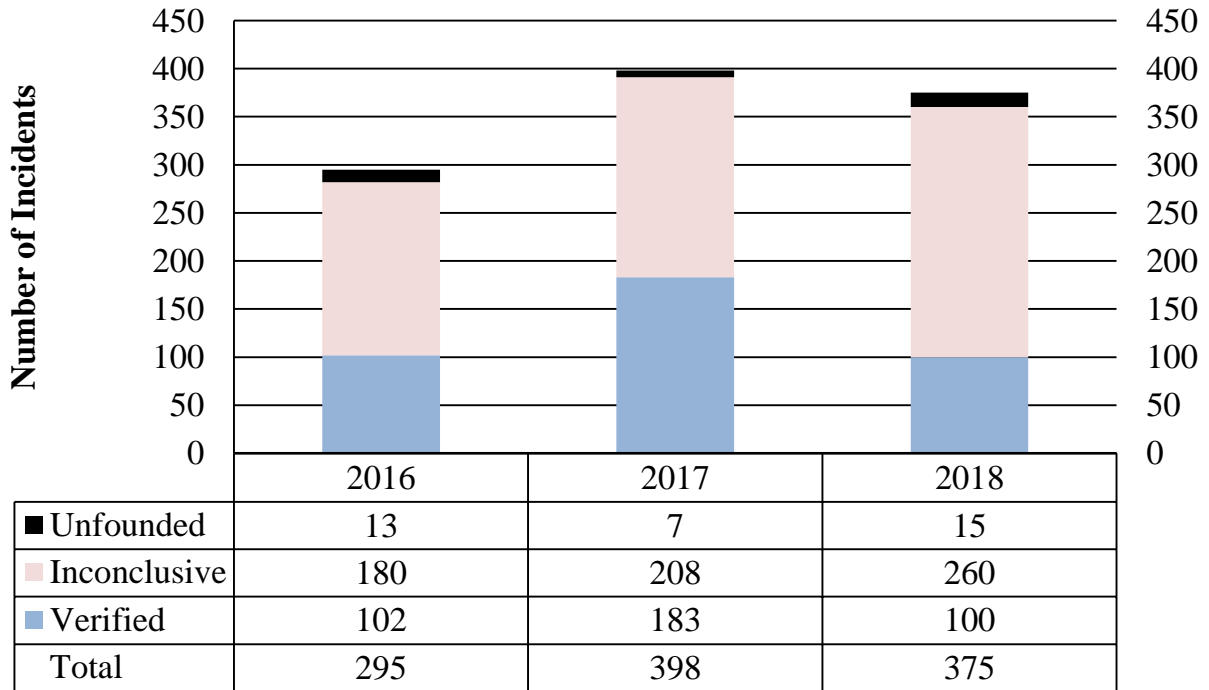
The Judiciary advises that during fiscal 2019, there were 21 violations of § 10-304 filed in the District Court and 18 violations filed in the circuit courts, resulting in two convictions in District Court and zero convictions in the circuit courts. The Division of Correction conducted one intake on an individual sentenced under § 10-304 during fiscal 2019.

FBI Statistics and State of Maryland 2018 Hate/Bias Report

According to a fall 2019 publication by the FBI, law enforcement agencies reported 7,120 bias-motivated criminal incidents nationwide, an approximate 1% decrease compared to the 7,175 incidents reported in 2018. The FBI received information on 49 criminal incidents from 20 participating agencies (cities, counties, colleges, police departments, *etc.*) in Maryland. The remaining 135 participating agencies indicated no incidents of hate crime for the quarters for which they submitted reports during 2018.

In September 2019, the Department of State Police (DSP) published the *State of Maryland 2018 Hate/Bias Report*. According to the report, 375 hate/bias incidents were reported by law enforcement agencies in the State to DSP during calendar 2018, representing a 6% decrease from the 398 incidents reported in calendar 2017. Of the 375 incidents reported in 2018, 100 were verified to be motivated by bias, 260 were inconclusive regarding motivation, and 15 were determined to be unfounded. The data in DSP's report includes incidents that may or may not be considered criminal activity; FBI data is limited to hate/bias-based crimes. **Exhibit 1** contains DSP hate/bias incident data for 2016 through 2018.

Exhibit 1
Hate/Bias Incidents Reported by Law Enforcement Agencies to DSP
2016-2018



DSP: Department of State Police

Source: *State of Maryland 2018 Hate/Bias Report*

Additional Information

Prior Introductions: None.

Designated Cross File: SB 606 (Senator Benson, *et al.*) - Judicial Proceedings.

Information Source(s): Montgomery and Prince George’s counties; Maryland State Commission on Criminal Sentencing Policy; Judiciary (Administrative Office of the Courts); Maryland State’s Attorneys’ Association; Department of Public Safety and Correctional Services; Department of State Police; Federal Bureau of Investigation; *Baltimore Sun*; *Capital Gazette*; *WTOP*; Department of Legislative Services

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