

Chapter 385

(House Bill 128)

AN ACT concerning

Criminal Law – Hate Crimes – Protected Groups and Penalties

FOR the purpose of altering a certain definition in the context of hate crimes; including ~~age and gender related identity or expression~~ gender identity in the list of characteristics on the basis of which a person may not commit certain acts; authorizing a court to require an offender convicted of hate crimes to complete a certain program; ~~requiring a court to provide certain offenders with certain information;~~ requiring the ~~Board of Regents of the University System of Maryland to develop and offer a curriculum for~~ University System of Maryland to manage the development of a certain program; ~~authorizing the Board to charge a reasonable fee to participate in the program, subject to a certain exception;~~ requiring the Board to ~~develop certain material on the program and share that material with the Maryland Commission on Civil Rights;~~ requiring the Commission to ~~ensure that certain offenders have access to the material~~ defining a certain term; and generally relating to hate crimes.

~~BY repealing and reenacting, without amendments,
Article – Criminal Law
Section 10–301(a)
Annotated Code of Maryland
(2012 Replacement Volume and 2020 Supplement)~~

BY repealing and reenacting, with amendments,
Article – Criminal Law
Section ~~10–301(e)~~ 10–301, 10–304, 10–305, and 10–306
Annotated Code of Maryland
(2012 Replacement Volume and 2020 Supplement)

BY adding to
Article – Education
Section 12–120
Annotated Code of Maryland
(2018 Replacement Volume and 2020 Supplement)

~~BY adding to
Article – State Government
Section 20–208
Annotated Code of Maryland
(2014 Replacement Volume and 2020 Supplement)~~

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND,
That the Laws of Maryland read as follows:

Article – Criminal Law

10–301.

(a) In this subtitle the following words have the meanings indicated.

(B) “GENDER IDENTITY” HAS THE MEANING STATED IN § 20–101 OF THE STATE GOVERNMENT ARTICLE.

[(b)] (C) “Homeless” means:

(1) lacking a fixed, regular, and adequate nighttime residence; or

(2) having a primary nighttime residence that is:

(i) a supervised publicly or privately operated shelter designed to provide temporary living accommodations; or

(ii) a public or private place not designed for or ordinarily used as a regular sleeping accommodation for human beings.

~~(b)~~ **(D)** “Sexual orientation” means the identification of an individual as to male or female homosexuality, heterosexuality, **OR** bisexuality[, or gender–related identity].

10–304.

Motivated either in whole or in substantial part by another person’s or group’s race, color, religious beliefs, sexual orientation, gender, ~~GENDER-RELATED IDENTITY OR EXPRESSION~~, **GENDER IDENTITY**, disability, ~~for~~ national origin, ~~OR AGE~~, or because another person or group is homeless, a person may not:

(1) (i) commit a crime or attempt or threaten to commit a crime against that person or group;

(ii) deface, damage, or destroy, or attempt or threaten to deface, damage, or destroy the real or personal property of that person or group; or

(iii) burn or attempt or threaten to burn an object on the real or personal property of that person or group; or

(2) commit a violation of item (1) of this section that:

(i) except as provided in item (ii) of this item, involves a separate crime that is a felony; or

(ii) results in the death of a victim.

10-305.

A person may not deface, damage, or destroy, attempt or threaten to deface, damage, or destroy, burn or attempt or threaten to burn an object on, or damage the real or personal property connected to a building that is publicly or privately owned, leased, or used, including a cemetery, library, meeting hall, recreation center, or school:

(1) because a person or group of a particular race, color, religious belief, sexual orientation, gender, ~~GENDER-RELATED IDENTITY OR EXPRESSION~~, GENDER IDENTITY, disability, ~~for~~ national origin, ~~OR AGE~~, or because a person or group that is homeless, has contacts or is associated with the building; or

(2) if there is evidence that exhibits animosity against a person or group, because of the race, color, religious beliefs, sexual orientation, gender, ~~GENDER-RELATED IDENTITY OR EXPRESSION~~, GENDER IDENTITY, disability, ~~for~~ national origin, ~~OR AGE~~ of that person or group or because that person or group is homeless.

10-306.

(a) Except as provided in subsection (b) of this section, a person who violates this subtitle is guilty of a misdemeanor and on conviction is subject to imprisonment not exceeding 3 years or a fine not exceeding \$5,000 or both.

(b) (1) A person who violates § 10-304(2)(i) of this subtitle is guilty of a felony and on conviction is subject to imprisonment not exceeding 10 years or a fine not exceeding \$10,000 or both.

(2) A person who violates § 10-304(2)(ii) of this subtitle is guilty of a felony and on conviction is subject to imprisonment not exceeding 20 years or a fine not exceeding \$20,000 or both.

(C) ~~(1)~~ IN ADDITION TO ANY OTHER PENALTIES IMPOSED BY THIS SECTION, THE COURT MAY REQUIRE A PERSON WHO VIOLATES THIS SUBTITLE TO COMPLETE AN ANTIBIAS EDUCATION PROGRAM.

~~(2) IF THE COURT REQUIRES A DEFENDANT TO COMPLETE AN ANTIBIAS EDUCATION PROGRAM UNDER THIS SUBSECTION, THE COURT SHALL PROVIDE THE DEFENDANT WITH INFORMATIONAL MATERIAL AS REQUIRED UNDER § 20-208 OF THE STATE GOVERNMENT ARTICLE.~~

~~(3) AN ANTIBIAS EDUCATION PROGRAM DEVELOPED AND OFFERED UNDER § 12-120 OF THE EDUCATION ARTICLE SATISFIES THIS SUBSECTION.~~

Article – Education

~~12-120.~~

~~(A) ON OR BEFORE JANUARY 1, 2023, THE BOARD OF REGENTS UNIVERSITY SYSTEM OF MARYLAND SHALL DEVELOP A CURRICULUM FOR MANAGE THE DEVELOPMENT OF AN ANTIBIAS EDUCATION PROGRAM THAT PROVIDES ANTIBIAS EDUCATION RELEVANT TO THE PROVISIONS OF TITLE 10, SUBTITLE 3 OF THE CRIMINAL LAW ARTICLE.~~

~~(B) TO THE EXTENT PRACTICABLE, THE CURRICULUM REQUIRED BY THIS SECTION SHALL BE OFFERED TO THE PUBLIC AT EVERY CONSTITUENT INSTITUTION.~~

~~(C) THE BOARD MAY CHARGE A REASONABLE FEE FOR INDIVIDUALS TO PARTICIPATE IN A PROGRAM OFFERED UNDER THIS SECTION, UNLESS THE INDIVIDUAL:~~

~~(1) IS REQUIRED TO COMPLETE THE PROGRAM BY A COURT ORDER ISSUED UNDER § 10-306 OF THE CRIMINAL LAW ARTICLE; AND~~

~~(2) IN THE JUDICIAL PROCEEDING RESULTING IN THE COURT ORDER, QUALIFIED AS AN INDIGENT INDIVIDUAL UNDER § 16-210 OF THE CRIMINAL PROCEDURE ARTICLE.~~

~~(D) THE BOARD SHALL DEVELOP INFORMATIONAL MATERIAL DESCRIBING THE CURRICULUM REQUIRED BY THIS SECTION AND PROVIDE THAT MATERIAL TO THE MARYLAND COMMISSION ON CIVIL RIGHTS.~~

~~Article – State Government~~

~~20-208.~~

~~THE COMMISSION SHALL WORK WITH THE ADMINISTRATIVE OFFICE OF THE COURTS TO ENSURE THAT ANY CRIMINAL DEFENDANT WHO IS REQUIRED TO COMPLETE AN ANTIBIAS EDUCATION PROGRAM UNDER § 10-306 OF THE CRIMINAL LAW ARTICLE IS PROVIDED WITH THE MATERIALS THE COMMISSION RECEIVES UNDER § 12-120 OF THE EDUCATION ARTICLE.~~

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2021.

Enacted under Article II, § 17(c) of the Maryland Constitution, May 30, 2021.