

Department of Legislative Services
Maryland General Assembly
2022 Session

FISCAL AND POLICY NOTE
First Reader

House Bill 45
(Delegate Cardin)
Judiciary

Crimes - Mitigation and Defense - Religious Beliefs, Disability, or Homelessness

This bill establishes that the discovery or perception of, or belief about, another person's religious beliefs, disability, or homelessness, whether or not accurate, (1) does not constitute legally adequate provocation to mitigate a killing from the crime of murder to manslaughter and (2) is not a defense to the crime of assault in any degree.

Fiscal Summary

State Effect: The bill is not expected to materially affect State finances or operations.

Local Effect: The bill is not expected to materially affect local finances or operations.

Small Business Effect: None.

Analysis

Current Law:

Chapter 369 of 2021

Chapter 369 of 2021 established that the discovery or perception of, or belief about, another person's race, color, national origin, sex, gender identity, or sexual orientation, whether or not accurate, (1) does not constitute legally adequate provocation to mitigate a killing from the crime of murder to manslaughter and (2) is not a defense to the crime of assault in any degree.

Mitigation of Criminal Offenses

To reduce a homicide to manslaughter, there must be not simply provocation in psychosocial fact but one of certain fairly well-defined classes of provocation recognized as being adequate as a matter of law. *Tripp v. State*, 36 Md. App. 459 (1977). If the defense of mitigation prevails, the homicide is not malicious, and the offense is reduced from murder to manslaughter. *Jones v. State*, 37 Md. App. 511 (1977).

A person charged with assault in the first or second degree, reckless endangerment, or causing a prison employee to come into contact with bodily fluid may assert any judicially recognized defense.

Hate Crimes

Title 10, Subtitle 3 of the Criminal Law Article contains the State's hate crimes laws. Section 10-304 prohibits a person from engaging in specified actions motivated either in whole or in substantial part by another person's or group's race, color, *religious beliefs*, sexual orientation, gender, gender identity, *disability*, or national origin, or because another person or group is *homeless*. Section 10-305, which prohibits causing damage to a building, contains identical references.

Additional Information

Prior Introductions: None.

Designated Cross File: None.

Information Source(s): Baltimore City; Harford, Montgomery, and Talbot counties; Maryland State Commission on Criminal Sentencing Policy; Judiciary (Administrative Office of the Courts); Office of the Public Defender; Maryland State's Attorneys' Association; Department of Public Safety and Correctional Services; Department of Legislative Services

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