

Department of Legislative Services
Maryland General Assembly
2023 Session

FISCAL AND POLICY NOTE
Third Reader

Senate Bill 5

(Senator Kramer)

Judicial Proceedings

Judiciary

Hate Crimes – Civil Remedy

This bill authorizes a person who is the victim of an act that would constitute a violation of the State's hate crime laws to bring a civil action against the person or persons who committed the act 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, 2023 effective date.

Fiscal Summary

State Effect: Any increase in District Court proceedings as a result of the bill can be handled with existing resources. Revenues are not affected.

Local Effect: Any increase in circuit court proceedings as a result of the bill can be handled with existing resources. Local revenues are not affected.

Small Business Effect: Minimal.

Analysis

Bill Summary: The court may issue an injunction to prevent or restrain an act that would constitute a violation of the State's hate crime laws and award the following to a prevailing plaintiff: (1) economic damages and any other pecuniary loss sustained by the plaintiff that was proximately caused by the hate crimes violation; (2) noneconomic damages, as specified; and (3) reasonable attorney's fees and court costs. Damages awarded by a court may be equal to three times the amount of actual damages. Noneconomic damages deriving from emotional distress and mental anguish may not include emotional distress or mental anguish caused solely by the need to replace or repair personal or real property. The

availability of a civil remedy does not affect any legal or equitable right or remedy otherwise provided by law.

Current Law: The State's hate crimes statutes are contained in Title 10, Subtitle 3 of the Criminal Law Article, specifically §§ 10-302 (damaging property of a religious entity), 10-303 (obstructing exercise of religious beliefs), 10-304 (harassment or destruction of property), 10-305 (damage to an associated building), and 10-305.1 (prohibition on use of an item or symbol to threaten or intimidate).

Section 10-302 (Damaging Property of a Religious Entity)

A person may not deface, damage, or destroy, or attempt or threaten to deface, damage, or destroy, personal or real property that is owned, leased, or used by a religious entity or for any religious purpose.

Section 10-303 (Obstructing Exercise of Religious Beliefs)

A person may not, by force or threat of force, obstruct or attempt to obstruct another in the free exercise of that person's religious beliefs.

Section 10-304 (Harassment or Destruction of Property)

A person may not engage in the following acts motivated either in whole or in substantial part because another person or group is homeless or because of another person's or group's race, color, religious beliefs, sexual orientation, gender, gender identity, disability, or national origin:

- commit a crime or attempt or threaten to commit a crime against that person or group;
- deface, damage, or destroy, or attempt or threaten to deface, damage, or destroy, the real or personal property of that person or group;
- burn or attempt or threaten to burn an object on the real or personal property of that person or group;
- make or cause to be made a false statement, report, or complaint that the person knows to be false as a whole or in material part to a specified law enforcement officer, about that person or group with the intent to deceive and to cause an investigation or other action to be taken as a result of the statement, report, or complaint, in violation of § 9-501 of the Criminal Law Article; 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.

Section 10-305 (Damage to an Associated Building)

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 (1) because a person or group of a particular race, color, religious belief, sexual orientation, gender, gender identity, disability, or national origin, 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 identity, disability, or national origin of that person or group or because that person or group is homeless.

Section 10-305.1 (Prohibition on Use of an Item or Symbol to Threaten or Intimidate)

A person may not place or inscribe an item or a symbol, including an actual or depicted noose or swastika, whether temporary or permanent, on any real or personal property, public or private, without the express permission of the owner or specific persons, with the intent to threaten or intimidate any person or group of persons.

Penalties

In general, a person who violates these provisions 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.

In addition to any other penalties imposed, the court may require a person to complete an antibias education program.

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.

Additional Information

Prior Introductions: Similar legislation has been introduced within the last three years. See SB 71 and HB 290 of 2022 and SB 128 and HB 452 of 2021.

Designated Cross File: HB 13 (Delegate Crutchfield) - Judiciary.

Information Source(s): Judiciary (Administrative Office of the Courts); Department of Legislative Services

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