

SB 71 Hate Crimes Civil Remedy.pdf

Uploaded by: deborah miller

Position: FAV



Testimony in SUPPORT of Senate Bill 71 – Hate Crimes – Civil Remedy
Judicial Proceedings Committee
January 19, 2022

The Jewish Community Relations Council of Greater Washington (JCRC) serves as the public affairs and community relations arm of the Jewish community. We represent over 100 Jewish organizations, synagogues, and social services agencies throughout Maryland, Virginia, and the District of Columbia. The JCRC is strongly committed to cultivating a society based on freedom, justice, and pluralism. We work throughout the region to advocate for our agencies that serve the most vulnerable residents and to campaign for important policy interests on behalf of the Jewish community and all Marylanders. The JCRC is focused on promoting social justice and intergroup relations and combating antisemitism and all forms of hatred.

In our ongoing effort to strengthen Maryland's hate crimes laws, the JCRC supports Senate Bill 71-- Hate Crimes -- Civil Remedy. Hate crimes and bias incidents against the Jewish community continue to rise at an alarming rate. Antisemitism is one of the oldest forms of hatred and Maryland is not immune to such attacks at his schools and houses of worship. The very recent hostage crisis at a Texas synagogue is yet another disturbing reminder of how critical it is to fight against antisemitism. FBI's Hate Crime Statistics indicate that the majority of all religious-based hate crimes in our country are against the Jewish community. Although Jews only represent 2% of the population, they constitute 60% of all anti-religious hate or bias crimes. Furthermore, according to the ADL, incidents and threats against Jews in Maryland showed a dramatic rise- up 135% - from the previous year.

Senate Bill 71 authorizes a person who is aggrieved by 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. Those remedies include awarding economic damages, noneconomic damages, such as pain and suffering, emotional distress, mental anguish, loss of enjoyment, and loss of companionship. SB 71 also includes punitive damages awarded to the Attorney General bringing the civil action, and reasonable attorney's fees and court costs to the prevailing plaintiff or the Attorney General. Although the State of Maryland already has strong state crimes laws, for these reasons, we ask this committee to give a favorable report on SB 71.

MCCR Hate Crimes Civil Remedy.pdf

Uploaded by: Glendora Hughes

Position: FAV

State of Maryland

Commission on Civil Rights

“Our vision is to have a State that is free from any trace of unlawful discrimination.”



Officers

Alvin O. Gillard, Executive Director
Nicolette Young, Assistant Director
Glendora C. Hughes, General Counsel

Governor
Larry Hogan
Lt. Governor
Boyd K. Rutherford
Commission Chairperson
Gary C. Norman, Esq.
Commission Vice Chairperson
Roberto N. Allen, Esq.
Commissioners
Allison U. Dichoso, Esq.
Hayden B. Duke
Janssen E. Evelyn, Esq.
Eileen M. Levitt, SPHR, SHRM-SCP
Rabbi Binyamin Marwick
Jeff Rosen
Gina McKnight-Smith, PharmD, MBA

January 19, 2022

Senate Bill 71 – Hate Crimes – Civil Remedy POSITION: Support

Dear Chairperson Smith, Vice Chairperson Waldstreicher, and Members of the Senate Judicial Proceedings Committee:

The Maryland Commission on Civil Rights (“MCCR”; “The Commission”) is the State agency responsible for the enforcement of laws prohibiting discrimination in employment, housing, public accommodations, and state contracts based upon race, color, religion, sex, age, national origin, marital status, familial status, sexual orientation, gender identity, genetic information, physical and mental disability, and source of income.

Senate Bill 71 provides to a person who is the victim of a hate crime in Maryland, the right to bring a civil action against the person or persons who committed the violation. Maryland is, unfortunately, not immune from acts of hate and bias against members of our community. Each year the Maryland State Police (“MSP”) forwards a copy of the State of Maryland Hate/Bias Report to MCCR. In its most recent report for calendar year 2020, MSP received 382 individual reports of alleged acts of hate and bias, up from the 375 reported in 2018. This was an average of 32 reported incidents per month. These incidents can include, but are not limited to, bodily harm and property destruction. While the law currently has criminal penalties of a fine and/or imprisonment for perpetrators of hate crimes, this bill would provide a civil remedy for victims to recover economic and non-economic damages associated with the unlawful act.

If a victim of unlawful discrimination in employment or housing files a complaint with the Maryland Commission on Civil Rights, the Commission is authorized by Title 20 of the State Government Article to seek financial relief for the victims of proven discrimination. MCCR finds that the standard in SB 71 is consistent with the spirit of Title 20, and thus is an appropriate tool for a victim to seek relief for harm caused by an hate/bias act.

For these reasons, the Maryland Commission on Civil Rights urges a favorable vote on SB 71. Thank you for your time and consideration of the information contained in this letter. The Maryland Commission on Civil Rights looks forward to the continued opportunity to work with you to improve and promote civil rights in Maryland.

MAJ- Support -SB71 Hate Crimes Civil Remedy (002)

Uploaded by: Josh Howe

Position: FAV



Maryland Association for Justice, Inc.

2022 Position Paper

SB 71 - HATE CRIMES - CIVIL REMEDY

FAVORABLE REPORT

The Maryland Association for Justice (MAJ) writes to provide information to the Senate Judicial Proceedings Committee with respect to pending legislation, Senate Bill 71 (Hate Crimes - Civil Remedy).

SB 71 authorizes any person aggrieved by a “hate crime” to bring a civil action against the person or persons who committed the act, regardless of whether the wrongful conduct resulted in a criminal conviction. SB 71 permits the recovery of injunctive relief, and further authorizes the recovery of economic and non-economic damages proximately caused by the wrongful conduct at issue, as well as punitive damages.

Under current law, an action for economic damages may be brought against a tortfeasor who maliciously, or even negligently, defaces or otherwise damages property. However, SB 71 greatly expands current law by explicitly authorizing the recovery of non-economic damages in cases involving damage to property only. *E.g.*, Md. Cts. & Jud. Procs. Code Ann. § 10-302 (hate crime” includes damage to real or personal property owned, leased or used by a religious entity).

Maryland law does not allow the recovery of non-economic damages in the absence of a personal physical injury. The leading case, Green v. T.A. Shoemaker & Co., 111 Md. 69 (1909), established that rule, and the Court of Appeals recently applied the same rule in 2013, holding that homeowners were not entitled to recover non-economic damages despite their actual fear over the health effects of having ingested toxic chemicals allegedly spilled into their local drinking water. Exxon Mobil Corp. v. Albright, 433 Md. 303, 350 (2013) (“recovery cannot be obtained for mental distress without physical impact,” unless “the emotional distress due to the tortious conduct is manifested objectively”). In this regard, SB 71 represents a significant change in the law.

SB 71 further instructs the trial court to award three times the plaintiff’s actual economic and non-economic damages, and *also* explicitly authorizes the recovery of punitive damages. This also represents a change from current law of punitive damages in tort cases, which requires actual malice”; § 10-302 provides an example of a “hate crime” that does not include any element of “intent” in its definition.

A House Workgroup on Punitive Damages found dozens of statutes in the Maryland Code, permitting the recovery of punitive damages for conduct with no discernible common theme. In addition, SB 71 is silent with respect to the standards applicable to a punitive damages award, including what evidence would be required. The Maryland Association for Justice urges the Senate Judicial Proceedings Committee to consider a global approach to punitive damages reform.

MAJ URGES A FAVORABLE REPORT

SB 71 - Civil Remedies.pdf

Uploaded by: Matt Peterson

Position: FAV

OFFICERS

RABBI ANDREW BUSCH

President

ELIZABETH GREEN

1st Vice President

THE HON. CHAYA FRIEDMAN

BENJAMIN ROSENBERG

RABBI STEVEN SCHWARTZ

MELANIE SHAPIRO

ROBIN WEIMAN

YEHUDA NEUBERGER

Past President

HOWARD LIBIT

Executive Director

MEMBER ORGANIZATIONS

Adat Chaim Congregation

American Jewish Committee

Americans for Peace Now

Baltimore Chapter

American Israel Public Affairs Committee

American Red Magen David for Israel

American Zionist Movement

Amit Women

Association of Reform Zionists of America

Baltimore Board of Rabbis

Baltimore Hebrew Congregation

Baltimore Jewish Green and Just Alliance

Baltimore Men's ORT

Baltimore Zionist District

Beth Am Congregation

Beth El Congregation

Beth Israel Congregation

Beth Shalom Congregation of

Howard County

Beth Tfiloh Congregation

B'nai B'rith, Chesapeake Bay Region

B'nai Israel Congregation

B'nai Jacob Shaarei Zion Congregation

Bolton Street Synagogue

Chevra Ahavas Chesed, Inc.

Chevrei Tzedek Congregation

Chizuk Amuno Congregation

Congregation Beit Tikvah

Congregation Beth Shalom of

Carroll County

Congregation Tiferes Yisroel

Federation of Jewish Women's

Organizations of Maryland

Hadassah

Har Sinai - Oheb Shalom Congregation

J Street

Jewish Federation of Howard County

Jewish Labor Committee

Jewish War Veterans

Jewish War Veterans, Ladies Auxiliary

Jewish Women International

Jews For Judaism

Moses Montefiore Anshe Emunah

Hebrew Congregation

National Council of Jewish Women

Ner Tamid Congregation

Rabbinical Council of America

Religious Zionists of America

Shaarei Tfiloh Congregation

Shomrei Emunah Congregation

Simon E. Sobeloff Jewish Law Society

Suburban Orthodox Congregation

Temple Beth Shalom

Temple Isaiah

Zionist Organization of America

Baltimore District



WRITTEN TESTIMONY

Senate Bill 71 – Hate Crimes – Civil Remedy

Judicial Proceedings Committee

January 19, 2022

SUPPORT

Background: Senate Bill 71 (SB71) allows a hate crime victim to bring a civil action against the person or persons who committed the crime. While common law allows for such action, SB71 codifies the common law. Further, the bill would clarify the common-law option for awarding reasonable attorney's fees for hate crimes. Lastly, the bill would allow for treble damages, an enhanced monetary penalty award for egregious crimes.

Written Comments: The Baltimore Jewish Council and Maryland's Jewish community are concerned about the recent rise in hate/bias incidents in Maryland and the damaging effect that is having on our communities. These incidents are impacting not just Jewish communities, but those of many of our other faith partners. According to the 2019 State of Maryland Hate/Bias Report authored by the Maryland State Police, there has been a gradual increase in hate/bias incidents over the past decade. 2019 saw the second-largest number of incidents reported in the last 10 years. Incidents were reported in a majority of jurisdictions with Anne Arundel, Baltimore, Howard, Montgomery, and Prince George's counties reporting the most incidents. These reported incidents targeted both individuals and some of our most vital arenas for community engagement, including schools, community centers, and places of worship. No place, person, place or part of our state is immune to these kinds of hateful incidents.

Over 30 other states have already codified civil actions for hate crimes. Maryland should follow in their steps so that a person or persons who are aggrieved by a violation of our hate crime laws can bring a civil action with enhanced penalties against the perpetrator of the crime.

With this in mind, the Baltimore Jewish Council urges a favorable report of SB71

The Baltimore Jewish Council, a coalition of central Maryland Jewish organizations and congregations, advocates at all levels of government, on a variety of social welfare, economic and religious concerns, to protect and promote the interests of The Associated Jewish Community Federation of Baltimore, its agencies and the Greater Baltimore Jewish community.

BALTIMORE JEWISH COUNCIL

5750 Park Heights Avenue, Suite 329 • Baltimore, Maryland 21215

410-542-4850 • fax 410-542-4834 • baltjc.org

Member of the Jewish Council for Public Affairs

Baltimore Jewish Council is an agency of The Associated



ADL Testimony SB71 - Hate Crimes - Civil Remedy.pd

Uploaded by: Meredith Weisel

Position: FAV



**Maryland General Assembly
Senate Judicial Proceedings Committee
January 19, 2022**

Testimony of Meredith R. Weisel

ADL Washington D.C. Deputy Regional Director

ADL (the Anti-Defamation League) is pleased to submit this testimony in **support of SB71, Hate Crimes – Civil Remedy**, a bill that would afford hate crime victims a statutory cause of action to pursue civil remedies against those who have caused harm.

As you may know, ADL is a leading anti-hate organization committed to stopping the defamation of the Jewish people and to securing justice and fair treatment to all. Dedicated to combating antisemitism, prejudice, and bigotry of all kinds, as well as defending democratic ideals and promoting civil rights, ADL has long been recognized as a leading resource on effective responses to violent bigotry, conducting an annual *Audit of Anti-Semitic Incidents* and drafting model hate crime statutes for state legislatures. We were also privileged to lead a broad coalition of civil rights, religious, educational, professional, law enforcement, and civic organizations for more than a decade in support of the 2009 Matthew Shepard and James Byrd Jr. Hate Crimes Prevention Act (HCPA).

In 1981, ADL crafted the first model hate crime law in the country. Today 46 states, as well as the District of Columbia, have hate crime laws, many of which are based on or substantially similar to our model, which was unanimously upheld by the U.S. Supreme Court. In addition, at least 33 states, as well as the District of Columbia, grant hate crime victims a civil cause of action to pursue statutory claims for the harm that the hate crimes cause. These civil remedies provisions were also included in ADL’s model hate crime statute, and they continue to be central to our hate crimes advocacy today.

Behind every hate crime statistic, there is a person, a family, a community – dealing with the unimaginable. Hate crimes cause a distinct type of harm that can have a lasting, immeasurable impact. This is because hate crimes target people due to their protected, immutable characteristics – race, religion, national origin, sexual orientation, sex, gender, gender identity, disability – things about a person that are central to identity and cannot be changed.

In appropriate cases, civil remedies provisions can be incredibly powerful tools for hate crime victims. First, these statutory provisions make sure that victims can recover for the *harm caused by the bias motivation itself*, not merely for the damages that flow from underlying torts. Second, civil remedies provisions provide a necessary stopgap in cases where prosecutors, for any number of reasons, are unable to prove a bias motivation beyond a reasonable doubt. Indeed, in order to prevail on a civil legal claim, hate crime victims must simply be able to show, by a preponderance of the evidence, that they were targeted because of their protected characteristics. And finally, these provisions often afford hate crime victims certain remedies that may not otherwise be available to them. SB71, for example, would permit hate crime victims to seek

injunctive relief and reasonable attorney's fees and costs, as well as up to three times the amount of actual damages sustained, in any civil action filed under the statute.

There is unfortunately no magic wand that we can wave to undo the irreparable harm that hate crimes cause. Yet here in Maryland, we can make sure that our laws and our policies are crafted in a way that will help stem the rising tide and, to the maximum extent possible, help make victims whole. SB71 is one such measure.

We accordingly urge the Senate Judicial Proceedings Committee to give SB71 a favorable report.

SB 71 - Hate Crimes - Civil Remedy.pdf

Uploaded by: Michelle Siri

Position: FAV

BILL NO: Senate Bill 71
TITLE: Hate Crimes – Civil Remedies
COMMITTEE: Judicial Proceedings
HEARING DATE: January 19, 2022
POSITION: **SUPPORT**

Senate Bill 71 would provide a civil remedy for individuals who have been the victim of a hate crime. The Women's Law Center supports Senate Bill 71 because it gives victims of these reprehensible crimes a civil remedy to recover for damages for economic and noneconomic harms caused by the acts.

Hate crimes are motivated by prejudice and malice and are an attack on a victim's personal qualities - race, color, religious belief, sexual orientation and national origin. Hate crimes are intended to intimidate the victim and the victim's community, resulting in isolation and vulnerability. Therefore, these crimes can cause particularly profound emotional and psychological damages. Hate crimes also result in physical and economic repercussions similar to other crimes. Victims of hate crimes should have an avenue to access our justice system and the opportunity to be made whole after experiencing the economic and noneconomic damages of these threatening actions.

Hate crime laws matter. In addition to deterring criminal activity, they possess important symbolic meaning that signals to targeted communities that the government cares and that law enforcement will take their concerns seriously. Having worked with the Office of the Attorney General and a coalition of organizations for the past two years seeking to find ways to address the rise in hate crimes throughout the state, the WLC supports the civil remedy created by Senate Bill 71 and urges a favorable report.

The Women's Law Center of Maryland is a private, non-profit, membership organization that serves as a leading voice for justice and fairness for women. It advocates for the rights of women through legal assistance to individuals and strategic initiatives to achieve systemic change. The Women's Law Center operates two legal hotlines, the Protection Order Advocacy and Representation Projects in Baltimore City, Baltimore County and Carroll County, the Collateral Legal Assistance for Survivors Project, and the Multi-Ethnic Domestic Violence Project.