



SB0128 - Criminal Law - Hate Crimes - Protected Groups and Penalties
Presented to the Hon. Luke Clippinger and Members of the Senate Judiciary Committee
January 26, 2021 1:30 a.m.

POSITION: SUPPORT

NARAL Pro-Choice Maryland urges the Senate Judicial Proceedings Committee to issue a **favorable report on HB0128 Criminal Law - Hate Crimes - Protected Groups and Penalties**, sponsored by Delegate Vaughn Stewart.

Our organization is an advocate for reproductive health, rights, and justice. We strive to ensure that all individuals have the freedom to decide their sexual and reproductive futures, and that they enjoy the full right to fulfill their human needs. Those who have been victims of a hate crime deserve to regain their physical, mental, and emotional wellbeing, as well as receive justice against the offenders who have perpetrated harm against them. To achieve true social justice, we must recognize additional definitions by which an individual may be targeted for a hate crime. This includes expanding on the term “gender” to include “gender-related identity or expression”, and adding “age” to the list of protected characteristics. We must support all victims of hate crimes—those who have had their bodily autonomy, safety, power, and control taken away from them—by also working to educate and rehabilitate offenders of the harm caused to prevent recidivism.

Maryland law regarding hate crimes currently states that a person may not commit a crime or attempt to commit a crime against another person based on “race, color, religious beliefs, sexual orientation, gender, disability, or national origin, or because another is homeless...”ⁱ Not included in this list is age discrimination, as well as discrimination based upon one’s gender identity or expression. Adding gender-related identity or expression has become increasingly important as public awareness of transphobia grows as well as the understanding that one’s gender may be nonbinary or fluid, and that gender expression is often conflated with sexual orientation. HB0128 seeks to create clarity. The State of Maryland 2019 Hate Bias Report offers this definition “external appearance of one's gender identity, usually expressed through behavior, clothing, haircut or voice, and which may or may not conform to socially defined behaviors and characteristics typically associated with being either masculine or feminine.”ⁱⁱ An individual’s right to express their gender is very much a human right. In order to protect the bodily autonomy of all Marylanders, age and gender expression must be explicitly included in our current hate crime law.

According to the State of Maryland 2019 Hate Bias Report, Maryland experienced an average of 386 hate bias incidents each year from 2017-2019. Not only were there 10 more incidents reported in 2019 compared to 2018, but bias reports have been rising over the last 10 years, according to the state’s findings.ⁱⁱⁱ In 2019, fifty incidents were reported as being motivated by sexual orientation and nine were reported as being motivated

by gender identity. We do not have information on the number of incidents reported as being motivated by age or gender expression since these terms are absent in our current hate crime law. Maryland Code regarding Public Safety requires that the Department of Public Safety collect, analyze, and disseminate information about crimes, including hate crimes based on race, religion, ethnicity, and sexual orientation.^{iv} In order to accurately track the number of hate crimes being committed, it is imperative that we separate “sexual orientation” from include “gender identity or expression”. It is equally important that we include age in the list of characteristics protected by the prohibition of hate crimes, as we must protect individuals from having crimes committed against them based on their age. In order to reduce the number of hate crimes that are occurring in our state, we must first be able to accurately track the crimes that are taking place. We can do so only by including these terms in our current hate crime law.

In addition to expanding the terminology of characteristics protected by the prohibition on hate crimes, HB0128 authorizes a court to require offenders convicted of hate crimes to complete an antibias education program. This measure is in place to decrease the likelihood that offenders will commit such crimes again after they are able to gain a deeper understanding of how their actions were harmful, not only to the individuals involved but also to the greater community where the crime was committed. Anti-bias education and training is designed to increase the understanding of differences and their value to a respectful and civil society. Under HB0128, the court will be expected to provide all offenders convicted of hate crimes with information about antibias education program. HB0128 also requires that the University System of Maryland develop and offer an antibias education program to offenders.

In accordance with goals towards reproductive health, rights, and justice, individuals must be protected against hate crimes for their age, and also for their right to gender identity or expression. Offenders convicted of hate crimes must pay for the consequences of their actions and take steps towards unlearning their harmful behavior, part of which includes completing an antibias education program. For these reasons, NARAL Pro-Choice Maryland **urges a favorable committee report on HB0128**. Thank you for your time and consideration.

ⁱ Maryland Code Criminal Law Subtitle 3 § 10-304.

ⁱⁱ “Sexual Orientation and Gender Identity Definitions.” Human Rights Campaign. Accessed January 15, 2021. <https://www.hrc.org/resources/sexual-orientation-and-gender-identity-terminology-and-definitions>.

ⁱⁱⁱ Rep. *STATE OF MARYLAND 2019 HATE BIAS REPORT*, September 25, 2020.

<https://mdsp.maryland.gov/Document%20Downloads/State%20of%20Maryland%202019%20Hate%20Bias%20Report.pdf>.

^{iv} Maryland Code Public Safety § 2-307