

HOUSE BILL 128

E1, E2

(PRE-FILED)

1l1266
CF SB 220

By: **Delegate Stewart**

Requested: October 29, 2020

Introduced and read first time: January 13, 2021

Assigned to: Judiciary

Committee Report: Favorable with amendments

House action: Adopted

Read second time: March 2, 2021

CHAPTER _____

1 AN ACT concerning

2 **Criminal Law – Hate Crimes – Protected Groups and Penalties**

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

16 ~~BY repealing and reenacting, without amendments,~~
17 ~~Article – Criminal Law~~
18 ~~Section 10-301(a)~~
19 ~~Annotated Code of Maryland~~
20 ~~(2012 Replacement Volume and 2020 Supplement)~~

21 BY repealing and reenacting, with amendments,
22 Article – Criminal Law

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.

Underlining indicates amendments to bill.

~~Strike out~~ indicates matter stricken from the bill by amendment or deleted from the law by amendment.



1 Section ~~10-301(e)~~ 10-301, 10-304, 10-305, and 10-306
 2 Annotated Code of Maryland
 3 (2012 Replacement Volume and 2020 Supplement)

4 BY adding to
 5 Article – Education
 6 Section 12-120
 7 Annotated Code of Maryland
 8 (2018 Replacement Volume and 2020 Supplement)

9 ~~BY adding to~~
 10 ~~Article – State Government~~
 11 ~~Section 20-208~~
 12 ~~Annotated Code of Maryland~~
 13 ~~(2014 Replacement Volume and 2020 Supplement)~~

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

16 **Article – Criminal Law**

17 10-301.

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

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

21 ~~[(b)]~~ **(C)** “Homeless” means:

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

23 (2) having a primary nighttime residence that is:

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

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

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

31 10-304.

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

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

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

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

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

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

14 (ii) results in the death of a victim.

15 10-305.

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

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

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

28 10-306.

29 (a) Except as provided in subsection (b) of this section, a person who violates this
30 subtitle is guilty of a misdemeanor and on conviction is subject to imprisonment not
31 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.~~

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

4 ~~Article State Government~~

5 ~~20-208.~~

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

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

Approved:

Governor.

Speaker of the House of Delegates.

President of the Senate.