

OFFICE OF FISCAL ANALYSIS

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sHB-6872

AN ACT REVISING AND CONSOLIDATING THE HATE CRIMES STATUTES.

OFA Fiscal Note

State Impact:

Agency Affected	Fund-Effect	FY 26 \$	FY 27 \$
Judicial Dept. (Probation); Correction, Dept.	GF - Potential Cost	Minimal	Minimal
Judicial Dept.	GF - Potential Cost	See Below	See Below
Resources of the General Fund	GF - Potential Revenue Gain	See Below	See Below

Note: GF=General Fund

Municipal Impact: None

Explanation

Sections 1-21 and 26-38 label certain crimes, ranging from class D misdemeanors to class B felonies, as hate crimes when motivated by a victim's protected social category, which results in a potential cost to the Department of Correction and the Judicial Department for incarceration or probation and a potential revenue gain to the General Fund from fines. On average, the marginal cost to the state for incarcerating an offender for the year is \$3,300¹ while the average marginal cost for supervision in the community is less than \$600² each year for adults and

¹ Inmate marginal cost is based on increased consumables (e.g., food, clothing, water, sewage, living supplies, etc.) This does not include a change in staffing costs or utility expenses because these would only be realized if a unit or facility opened.

² Probation marginal cost is based on services provided by private providers and only includes costs that increase with each additional participant. This does not include a cost for additional supervision by a probation officer unless a new offense is anticipated to result in enough additional offenders to require additional probation officers.

\$450 each year for juveniles.

Section 22 extends persistent offender status to certain offenders who commit a hate crime under the bill or whose crime was designated a hate crime by a sentencing judge. The section also decreases the penalty for the persistent offender's crime of a class A misdemeanor to correspond with a class E felony instead of a class D felony. This section results in a net potential cost to the Department of Correction and the Judicial Department for incarceration or probation and a potential revenue gain to the General Fund from fines.

Section 39 expands the Office of Attorney General's (OAG) authority to investigate hate crimes resulting in a potential revenue gain to the state depending on the number of hate crimes committed. The OAG can issue a civil penalty of up to \$2,500 per hate crime.

Sections 24 and 45 expand eligibility for the existing Hate Crimes Diversion program to include all hate crimes which results in a cost to the Judicial Department. The average cost per participant is approximately \$3,300. Since FY 20, a total of 35 participants were ordered to complete the program. This bill substantially increases the number of individuals who may be required to complete the program, and the actual annual cost depends upon the number of crimes committed and judicial discretion to refer to the program.

Sections 23 and 46 allow courts to designate certain crimes as a hate crime, require judges to indicate on the official record when a crime is sentenced as such, and enhance the penalty for murder if designated as a hate crime. This results in a potential cost to the Department of Correction for incarceration.

The Out Years

The annualized ongoing fiscal impact identified above would continue into the future subject to inflation, number of hate crimes committed, and the number of participants referred to the Hate Crimes Diversion program.