

OFFICE OF FISCAL ANALYSIS

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sSB-90

AN ACT REVISING AND CONSOLIDATING THE HATE CRIMES
STATUTES.

OFA Fiscal Note

State Impact:

Agency Affected	Fund-Effect	FY 27 \$	FY 28 \$
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 25 - 37 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. 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.

Sections 23 and 44 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. Between FY 20 and FY 25, 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.

Section 38 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.

All remaining sections result in no fiscal impact to the state as the affected agencies have the resources and capacity to meet the bill's requirements.

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.