

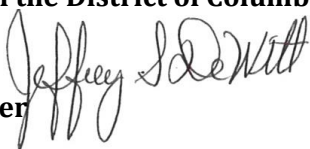
Government of the District of Columbia
Office of the Chief Financial Officer



Jeffrey S. DeWitt
Chief Financial Officer

MEMORANDUM

TO: The Honorable Phil Mendelson
Chairman, Council of the District of Columbia

FROM: Jeffrey S. DeWitt
Chief Financial Officer 

DATE: November 23, 2020

SUBJECT: Fiscal Impact Statement – Bella Evangelista and Tony Hunter Panic
Defense Prohibition and Hate Crimes Response Amendment Act of
2020

REFERENCE: Bill 23-409, Draft Committee Print as circulated on November 20, 2020

Conclusion

Funds are not sufficient in the fiscal year 2021 through fiscal year 2024 budget and financial plan to implement the bill. The bill's implementation will cost approximately \$241,000 in fiscal year 2021 and \$951,000 over the four-year financial plan period.

The bill's provision amending the definition of "place of public accommodation" is subject to the required resources being included in an approved budget and financial plan for the Office of Human Rights (OHR). The remaining provisions can be implemented beginning on the bill's effective date.

Background

The bill makes several changes to how laws establishing discrimination-based crimes, such as hate crimes and bias-related crimes, are applied, enforced, and defended.

The bill redefines "place of public accommodation" under the Human Rights Act¹ to include a place or offeror that provides access to an accommodation, service, or good, regardless of whether the provider or offeror charges a fee and regardless of whether the offeror is physically located in the District.

¹ Human Rights Act of 1977, effective December 13, 1977 (D.C. Law 2-38; D.C. Official Code § 2-1401.02(24)).

Current law² makes it illegal to burn, desecrate, mar, deface, or damage a religious or secular symbol on public property or private religious, educational, residential, memorial, charity, or cemetery properties. The bill expands the protections to include protection of religious and secular symbols on all property in the District regardless of property use.

The bill amends the definition of a bias-related crime to ensure that all disabilities are included, not just physical disabilities, and clarifies that the crime does not have to be based solely on the accused's prejudice. The bill also authorizes the Attorney General to fully investigate and bring civil action in the name of the District of Columbia against any person who commits a bias-related crime, interferes with any individual's exercise of rights protected by the United States Constitution or District law, or deprives any individual of their equal protection rights under the Constitution or District law. The bill allows the Attorney General to seek injunctive relief, damages for economic or non-economic loss, punitive damages, reasonable attorney fees and costs, a civil penalty of up to \$10,000, or any other relief as determined by the court.

The bill establishes that in any criminal proceeding, prosecution, or criminal trial, it is not an adequate "heat of passion," self-defense, or insanity defense claim if that status is based on the discovery of the victim's actual or perceived gender identity, gender expression, or sexual orientation. However, the bill allows the defense to present evidence of prior trauma to excuse the defendant's conduct or mitigate the severity of the offense.

Financial Plan Impact

Funds are not sufficient in the fiscal year 2021 through fiscal year 2024 budget and financial plan to implement the bill. The bill's expansion of the definition of "place of public accommodation" will increase the number of inquiries and complaints received by the OHR for review and investigation. OHR requires an additional specialist and attorney in order to manage the increase in activity. This staff will cost \$230,000 in fiscal year 2021 and \$925,000 over the four-year financial plan period. OHR will also require one-time administrative resources and ongoing outreach resources of approximately \$11,000 in fiscal year 2021 and \$26,000 over the four-year financial plan period.

The bill expands the Attorney General's authority to bring civil action in bias-related crimes and enhances the civil penalties available to the court. The Office of the Attorney General can absorb any costs associated with this expanded civil enforcement authority.

There are no costs associated with the bill's expanded protections for religious and secular symbols on all properties. There are also no costs associated with establishment that insanity and self-defense are not adequate defenses to a crime if that claim is made based on the discovery of the victim's actual or perceived gender identity, gender expression, or sexual orientation.

The chart on the following page summarizes the bill's fiscal impact.

² Omnibus Public Safety and Justice Amendment Act of 2009, effective December 10, 2009 (D.C. Law 18-88; D.C. Official Code § 22-3131 et seq.).

The Honorable Phil Mendelson

FIS: Bill 23-409, "Bella Evangelista and Tony Hunter Panic Defense Prohibition and Hate Crimes Response Amendment Act of 2020," Draft Committee Print as circulated on November 20, 2020

| Bella Evangelista and Tony Hunter Panic Defense Prohibition and Hate Crimes Response Amendment Act of 2020 Bill 23-409 Implementation Costs Fiscal Year 2021 – Fiscal Year 2022 (\$ thousands) | | | | | |
|---|----------------|----------------|----------------|----------------|--------------|
| | FY 2021 | FY 2022 | FY 2023 | FY 2024 | Total |
| Staff | \$230 | \$231 | \$232 | \$232 | \$925 |
| Administration and Outreach | \$11 | \$5 | \$5 | \$5 | \$26 |
| Total Costs | \$241 | \$236 | \$237 | \$237 | \$951 |