

**TO: BOARD OF LEGISLATORS
COUNTY OF WESTCHESTER**

Your Committee recommends the adoption of "A LOCAL LAW amending Chapter 273 of the Laws of Westchester County to require local municipal police departments to report all incidents involving conduct, which is or appears to be motivated, all or in part, by a person's actual or perceived membership in a protected class."

Your Committee is advised that according to the John Jay College of Criminal Justice, bias or hate crimes are crimes motivated by the perpetrator's bias or attitude against an individual victim or group based on perceived or actual personal characteristics, such as their race, religion, ethnicity, gender, sexual orientation, or disability. The New York State Division of Criminal Justice Services (DCJS), reports that the most common bias motivation was anti-race/ethnicity/national origin, followed by anti-religion and anti-LGBTQ. Anti-Black, anti-Jewish, and anti-Asian bias accounted for majority of the hate crimes for crimes against persons, while anti-Jewish and anti-Black led all hate crimes regarding crimes against property.

Your Committee is further advised that hate incidents on the other hand, involve behaviors that, though motivated by bias against a victim's race, religion, ethnic/national origin, gender, age, disability or sexual orientation, may not be criminal acts. Hostile or hateful speech, or other disrespectful/discriminatory behavior may be motivated by bias but is not illegal. They become crimes only when they directly incite perpetrators to commit violence against persons or property, or if they place a potential victim in reasonable fear of physical injury. Examples of hate incidents include name-calling,

insults, displaying hate material on your own property, posting hate material that does not result in property damage and distribution of materials with hate messages in public places.

Your Committee is informed that hate incidents are designed to intimidate, isolate, degrade, traumatize, and sow fear in the targeted individual or group. Most acts of hate however, whether or not a crime, go unreported because of fear or embarrassment. However, it is important to note that these incidents have a traumatic impact on the victims as well as on the community at large. They can have consequences for the targeted individual and the public far beyond the act itself and should be reported by everyone, including those targeted and bystanders.

Your Committee further notes that federal and state laws do not address the overwhelming majority of serious hate incidents, which do not satisfy the elements of a crime but are motivated by a person's actual or perceived membership in a protected class. For example, the Laws of Westchester County § 273 requires local municipalities within the County to report to the Commissioner of Public Safety only bias-related crimes, as defined in the New York State Penal Law ("Penal Law"). This proposed amendment to the Laws of Westchester County would require all local police departments to not only report all bias-related crimes, but bias-related incidents whether a crime or not as well, to the Commissioner of Public Safety, thereby closing the gap in reporting. Additionally, the proposed amendment would require the Commissioner of Public Safety to notify the Executive Director of the Westchester County Human Rights Commission of any incident,

which, although may not be criminal, is or appears to be motivated by a person's membership in a protected class.

Your Committee notes that the proposed Local Law does not meet the definition of an action under New York State Environmental Quality Review Act and its implementing regulations 6 NYCRR Part 617. Please refer to the memorandum from the Department of Planning dated January 14, 2022, which is on file with the Clerk of the Board of Legislators.

Your Committee, after careful consideration, recommends adoption of this Local Law.

Dated: May 2, 2022
White Plains, New York

Benjamin Boylston
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JSW-4-5-22 COMMITTEE ON

Legislation

Public Safety

Dated: May 2, 2022
White Plains, New York

The following members attended the meeting remotely, pursuant to Chapter 56 of the New York State Laws of 2022, and approved this item out of Committee with an affirmative vote. Their electronic signature was authorized and is below.

Committee(s) on

Legislation



Public Safety



FISCAL IMPACT STATEMENT

SUBJECT: Hate Crime Reporting

NO FISCAL IMPACT PROJECTED

OPERATING BUDGET IMPACT

To Be Completed by Submitting Department and Reviewed by Budget

SECTION A - FUND

GENERAL FUND

AIRPORT FUND

SPECIAL DISTRICTS FUND

SECTION B - EXPENSES AND REVENUES

Total Current Year Expense \$ -

Total Current Year Revenue \$ -

Source of Funds (check one): Current Appropriations Transfer of Existing Appropriations

Additional Appropriations

Other (explain)

Identify Accounts: _____

Potential Related Operating Budget Expenses: Annual Amount \$ -

Describe: _____

Potential Related Operating Budget Revenues: Annual Amount \$ -

Describe: _____

Anticipated Savings to County and/or Impact on Department Operations:

Current Year: _____

Next Four Years: _____

Prepared by: Gideon Grande

Title: Deputy Director

Department: Budget

Date: April 15, 2022

Reviewed By: 

Budget Director

Date: 4/15/22

LOCAL LAW INTRO. NO. 2022

A LOCAL LAW amending Chapter 273 of the Laws of Westchester County to require local municipal police departments to report all incidents involving conduct, which is or appears to be motivated, all or in part, by a person's actual or perceived membership in a protected class.

BE IT ENACTED by the County Board of the County of Westchester as follows:

Section 1. Chapter 273 of the Laws of Westchester County is hereby amended as follows:

Section 273.01. Powers and duties of department.

1. The Department of Public Safety shall consist of the following divisions: Division of Westchester County Police and the Division of Services. The Division of Westchester County Police and the Division of Services shall each be headed by a Deputy Commissioner to be appointed by the Commissioner/Sheriff, subject to the approval of the County Executive, to serve at the Commissioner/Sheriff's pleasure.
2. There shall also be within the department a Police Board and a Public Safety Emergency Force, as hereinafter described. The Commissioner/Sheriff may establish other units within the Department of Public Safety as he may deem necessary for the efficient operation of the department.
3. Every local municipal police department located in the County of Westchester shall notify the Commissioner of the Westchester County Department of Public Safety, in the manner prescribed by said Commissioner, of any alleged bias-related crimes against a person or property committed pursuant to Section 240.21, subsection (3) of Section 240.30, [and] Section 240.31, and Section 485.05 of the New York State Penal Law

and shall report any incident, offense, or unlawful act, which after investigation by law enforcement, is or appears to be motivated all or in part by the actual or perceived race, color, religion, age, national origin, alienage or citizenship status, ethnicity, familial status, creed, gender, sexual orientation, marital status, [or] disability of the victim, a person's status as a victim of domestic violence, sexual abuse or stalking, or an institutional target whose membership or association identifies with one or more of the aforementioned protected classes.[race, religion, ethnicity/national origin, sexual orientation, age, gender or disability of the victim or institutional target.] For purposes of this section:

(a) Incident is defined as hate motivated conduct that may not violate the New York State Penal Law; and,

(b) Familial status shall mean one or more individuals, under the age of eighteen years, being domiciled with (i) a parent or legal custodian of such individual or individuals, or (ii) the designee of such parent or other person having such custody, with the written permission of such parent or other person. The definition of familial status shall include any person who is pregnant or has a child or children or is in the process of securing legal custody or has legal custody of any individual under the age of eighteen years.

4. The Commissioner of the Westchester County Department of Public Safety shall send a notice to each local police department in Westchester County by December 31st of each year reminding said police departments of their reporting obligation under this Chapter.

5. The Commissioner of the Westchester County Department of Public Safety shall notify the Executive Director of the Westchester County Human Rights Commission of any incident, offense, or unlawful act, which after investigation by law enforcement, is or appears to be motivated all or in part by the actual or perceived race, color, religion, age, national origin, alienage or citizenship status, ethnicity, familial status, creed, gender, sexual orientation, marital status, or disability of the victim, because of such person's status as a victim of domestic violence, sexual abuse or stalking, or an institutional target whose membership or association identifies with one or more of the aforementioned protected classes.[race, religion, ethnicity/national origin, sexual orientation, age, gender or disability of the victim or institutional target, but may not violate the New York State Penal Law.]

Section 2. This Local Law shall take effect sixty (60) days after enactment.