

1 HB224
2 181924-1
3 By Representatives Rogers and Moore (M)
4 RFD: Judiciary
5 First Read: 14-FEB-17

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8 SYNOPSIS: Under existing law, additional criminal
9 penalties are provided for crimes if an offense was
10 motivated by the victim's actual or perceived race,
11 color, religion, national origin, ethnicity, or
12 physical or mental disability.

13 This bill would provide additional criminal
14 penalties if an offense is motivated by the
15 victim's actual or perceived employment as a law
16 enforcement officer or firefighter.

17 Amendment 621 of the Constitution of Alabama
18 of 1901, now appearing as Section 111.05 of the
19 Official Recompilation of the Constitution of
20 Alabama of 1901, as amended, prohibits a general
21 law whose purpose or effect would be to require a
22 new or increased expenditure of local funds from
23 becoming effective with regard to a local
24 governmental entity without enactment by a 2/3 vote
25 unless: it comes within one of a number of
26 specified exceptions; it is approved by the
27 affected entity; or the Legislature appropriates

1 funds, or provides a local source of revenue, to
2 the entity for the purpose.

3 The purpose or effect of this bill would be
4 to require a new or increased expenditure of local
5 funds within the meaning of the amendment. However,
6 the bill does not require approval of a local
7 governmental entity or enactment by a 2/3 vote to
8 become effective because it comes within one of the
9 specified exceptions contained in the amendment.

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11 A BILL
12 TO BE ENTITLED
13 AN ACT

14
15 Relating to hate crimes; to amend Section 13A-5-13,
16 Code of Alabama 1975, to provide additional criminal penalties
17 for offenses motivated by the victim's actual or perceived
18 employment as a law enforcement officer or firefighter; and in
19 connection therewith would have as its purpose or effect the
20 requirement of a new or increased expenditure of local funds
21 within the meaning of Amendment 621 of the Constitution of
22 Alabama of 1901, now appearing as Section 111.05 of the
23 Official Recompilation of the Constitution of Alabama of 1901,
24 as amended.

25 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

26 Section 1. Section 13A-5-13, Code of Alabama 1975,
27 is amended to read as follows:

1 "§13A-5-13.

2 "(a) The Legislature finds and declares the
3 following:

4 "(1) It is the right of every person, regardless of
5 race, color, religion, national origin, ethnicity, or physical
6 or mental disability, to be secure and protected from threats
7 of reasonable fear, intimidation, harassment, and physical
8 harm caused by activities of groups and individuals.

9 "(2) It is not the intent, by enactment of this
10 section, to interfere with the exercise of rights protected by
11 the Constitution of the State of Alabama or the United States.

12 "(3) The intentional advocacy of unlawful acts by
13 groups or individuals against other persons or groups and
14 bodily injury or death to persons is not constitutionally
15 protected when violence or civil disorder is imminent, and
16 poses a threat to public order and safety, and such conduct
17 should be subjected to criminal sanctions.

18 "(b) The purpose of this section is to impose
19 additional penalties where it is shown that a perpetrator
20 committing the underlying offense was motivated by the
21 victim's actual or perceived race, color, religion, national
22 origin, ethnicity, ~~or~~ physical or mental disability,
23 employment as a law enforcement officer or firefighter.

24 "(c) A person who has been found guilty of a crime,
25 the commission of which was shown beyond a reasonable doubt to
26 have been motivated by the victim's actual or perceived race,
27 color, religion, national origin, ethnicity, ~~or~~ physical or

1 mental disability, or employment as a law enforcement officer
2 or firefighter, shall be punished as follows:

3 "(1) Felonies:

4 "a. On conviction of a Class A felony that was found
5 to have been motivated by the victim's actual or perceived
6 race, color, religion, national origin, ethnicity, ~~or~~ physical
7 or mental disability, employment as a law enforcement officer,
8 or firefighter, the sentence shall not be less than 15 years.

9 "b. On conviction of a Class B felony that was found
10 to have been motivated by the victim's actual or perceived
11 race, color, religion, national origin, ethnicity, ~~or~~ physical
12 or mental disability, employment as a law enforcement officer,
13 or firefighter, the sentence shall not be less than 10 years.

14 "c. On conviction of a Class C felony that was found
15 to have been motivated by the victim's actual or perceived
16 race, color, religion, national origin, ethnicity, ~~or~~ physical
17 or mental disability, employment as a law enforcement officer,
18 or firefighter, the sentence shall not be less than two years.

19 "d. On conviction of a Class D felony that was found
20 to have been motivated by the victim's actual or perceived
21 race, color, religion, national origin, ethnicity, ~~or~~ physical
22 or mental disability, employment as a law enforcement officer,
23 or firefighter, the sentence shall not be less than 18 months.

24 "e. For purposes of this subdivision, a criminal
25 defendant who has been previously convicted of any felony and
26 receives an enhanced sentence pursuant to this section is also

1 subject to enhanced punishment under the Alabama Habitual
2 Felony Offender Act, Section 13A-5-9.

3 "(2) Misdemeanors:

4 "On conviction of a misdemeanor which was found
5 beyond a reasonable doubt to have been motivated by the
6 victim's actual or perceived race, color, religion, national
7 origin, ethnicity, ~~or~~ physical or mental disability,
8 employment as a law enforcement officer or firefighter, the
9 defendant shall be sentenced for a Class A misdemeanor, except
10 that the defendant shall be sentenced to a minimum of three
11 months.

12 "(d) For the purposes of this section, "law
13 enforcement officer" means an officer with the power of arrest
14 who is employed with any state agency, department, board,
15 commission, or institution or any municipality or county
16 within this state.

17 "(e) For the purposes of this section, "firefighter"
18 means any person employed as a firefighter by a city or
19 municipality as certified by the Alabama Firefighters
20 Personnel Standards and Education Commission. The term also
21 includes any volunteer firefighter who is a member of a
22 certified volunteer fire department under Section 9-3-17."

23 Section 2. Although this bill would have as its
24 purpose or effect the requirement of a new or increased
25 expenditure of local funds, the bill is excluded from further
26 requirements and application under Amendment 621, now
27 appearing as Section 111.05 of the Official ReCompilation of

1 the Constitution of Alabama of 1901, as amended, because the
2 bill defines a new crime or amends the definition of an
3 existing crime.

4 Section 3. This act shall become effective on the
5 first day of the third month following its passage and
6 approval by the Governor, or its otherwise becoming law.