

1 HB8
2 173614-2
3 By Representative Givan
4 RFD: Judiciary
5 First Read: 07-FEB-17
6 PFD: 10/13/2016

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8 SYNOPSIS: Under existing law, additional penalties are
9 imposed against a person if the offense committed
10 is motivated by the victim's race, color, religion,
11 national origin, ethnicity, or physical or mental
12 disability.

13 This bill would provide additional penalties
14 for crimes motivated by the victim's sexual
15 orientation or gender identity or expression.
16

17 A BILL
18 TO BE ENTITLED
19 AN ACT
20

21 To amend Section 13A-5-13, Code of Alabama 1975,
22 relating to hate crimes; to impose additional penalties for
23 crimes motivated by the victim's sexual orientation or gender
24 identity or expression.

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, sexual orientation, or gender identity
7 or expression, to be secure and protected from threats of
8 reasonable fear, intimidation, harassment, and physical harm
9 caused by activities of groups and individuals.

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

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

19 "(b) The purpose of this section is to impose
20 additional penalties where it is shown that a perpetrator
21 committing the underlying offense was motivated by the
22 victim's actual or perceived race, color, religion, national
23 origin, ethnicity, ~~or~~ physical or mental disability, sexual
24 orientation, or gender identity or expression,.

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

1 color, religion, national origin, ethnicity, ~~or~~ physical or
2 mental disability, sexual orientation, or gender identity or
3 expression, shall be punished as follows:

4 "(1) Felonies:

5 "a. On conviction of a Class A felony that was found
6 to have been motivated by the victim's actual or perceived
7 race, color, religion, national origin, ethnicity, ~~or~~ physical
8 or mental disability, sexual orientation, or gender identity
9 or expression, the sentence shall not be less than 15 years.

10 "b. On conviction of a Class B felony that was found
11 to have been motivated by the victim's actual or perceived
12 race, color, religion, national origin, ethnicity, ~~or~~ physical
13 or mental disability, sexual orientation, or gender identity
14 or expression, the sentence shall not be less than 10 years.

15 "c. On conviction of a Class C felony that was found
16 to have been motivated by the victim's actual or perceived
17 race, color, religion, national origin, ethnicity, ~~or~~ physical
18 or mental disability, sexual orientation, or gender identity
19 or expression, the sentence shall not be less than two years.

20 "d. On conviction of a Class D felony that was found
21 to have been motivated by the victim's actual or perceived
22 race, color, religion, national origin, ethnicity, ~~or~~ physical
23 or mental disability, sexual orientation, or gender identity
24 or expression, the sentence shall not be less than 18 months.

25 "e. For purposes of this subdivision, a criminal
26 defendant who has been previously convicted of any felony and
27 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, sexual
8 orientation, or gender identity or expression, the defendant
9 shall be sentenced for a Class A misdemeanor, except that the
10 defendant shall be sentenced to a minimum of three months.

11 "(d) For purposes of this section, sexual
12 orientation means heterosexuality, homosexuality, or
13 bisexuality."

14 Section 2. This act shall become effective on the
15 first day of the third month following its passage and
16 approval by the Governor, or its otherwise becoming law.