SB11

52315-1

By Senator Smitherman

RFD: Judiciary

First Read: 04-MAR-03

PFD: 02/19/2003

52315-1:n:02/07/2003:FC/tnh LRS2003-510

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

This bill would provide for those additional penalties for a crime motivated by the victim's sexual orientation.

A BILL

TO BE ENTITLED

AN ACT

To amend Section 13A-5-13, Code of Alabama 1975, relating to hate crimes; to impose additional penalties for a crime motivated by the victim's sexual orientation.

BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

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

"§13A-5-13.

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

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

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

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

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

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

mental disability, or sexual orientation shall be punished as follows:

"(1) Felonies:

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

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

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

"d. For purposes of this subdivision, a criminal defendant who has been previously convicted of any felony and receives an enhanced sentence pursuant to this section is also subject to enhanced punishment under the Alabama Habitual Felony Offender Act, Section 13A-5-9.

"(2) Misdemeanors:

"On conviction of a misdemeanor which was found beyond a reasonable doubt to have been motivated by the victim's actual or perceived race, color, religion, national

origin, ethnicity, ~~or~~ physical or mental disability, or sexual orientation, the defendant shall be sentenced for a Class A misdemeanor, except that the defendant shall be sentenced to a minimum of three months.

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

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