

1 HB413
2 173614-1
3 By Representatives Givan and Todd
4 RFD: Judiciary
5 First Read: 15-MAR-16

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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.

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17 A BILL
18 TO BE ENTITLED
19 AN ACT

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21 To amend Section 13A-5-13, Code of Alabama 1975, as
22 amended by Act 2015-185 (2015 Regular Session), relating to
23 hate crimes; to impose additional penalties for crimes
24 motivated by the victim's sexual orientation or gender
25 identity or expression.

26 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

1 Section 1. Section 13A-5-13, Code of Alabama 1975,
2 as amended by Act 2015-185 (2015 Regular Session), is amended
3 to read as follows:

4 "§13A-5-13.

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

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

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

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

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

1 "(c) A person who has been found guilty of a crime,
2 the commission of which was shown beyond a reasonable doubt to
3 have been motivated by the victim's actual or perceived race,
4 color, religion, national origin, ethnicity, ~~or~~ physical or
5 mental disability, sexual orientation, or gender identity or
6 expression, shall be punished as follows:

7 "(1) Felonies:

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

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

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

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

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

6 "(2) Misdemeanors:

7 "On conviction of a misdemeanor which was found
8 beyond a reasonable doubt to have been motivated by the
9 victim's actual or perceived race, color, religion, national
10 origin, ethnicity, ~~or~~ physical or mental disability, sexual
11 orientation, or gender identity or expression, the defendant
12 shall be sentenced for a Class A misdemeanor, except that the
13 defendant shall be sentenced to a minimum of three months.

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

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