

1 HB8  
2 173614-1  
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.  
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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.