

1 HB533
2 107508-1
3 By Representative Holmes
4 RFD: Judiciary
5 First Read: 17-FEB-09

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.

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

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

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 sexual orientation shall be punished as
2 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, or sexual orientation, the sentence
8 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, or sexual orientation, the sentence
13 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, or sexual orientation, the sentence
18 shall not be less than two years.

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

24 "(2) Misdemeanors:

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

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

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

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