

1 HB28  
2 117948-1  
3 By Representative Todd  
4 RFD: Judiciary  
5 First Read: 07-FEB-12  
6 PFD: 12/01/2011

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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 for those additional  
14 penalties for crimes motivated by the victim's  
15 sexual orientation or gender identity or  
16 expression.

17  
18 A BILL  
19 TO BE ENTITLED  
20 AN ACT

21  
22 To amend Section 13A-5-13, Code of Alabama 1975,  
23 relating to hate crimes; to impose additional penalties for  
24 crimes 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 is amended to read as follows:

3           "§13A-5-13.

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

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

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

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

21           "(b) The purpose of this section is to impose  
22 additional penalties where it is shown that a perpetrator  
23 committing the underlying offense was motivated by the  
24 victim's actual or perceived race, color, religion, national  
25 origin, ethnicity, ~~or~~ physical or mental disability, sexual  
26 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. For purposes of this subdivision, a criminal  
24 defendant who has been previously convicted of any felony and  
25 receives an enhanced sentence pursuant to this section is also  
26 subject to enhanced punishment under the Alabama Habitual  
27 Felony Offender Act, Section 13A-5-9.

1                   "(2) Misdemeanors:

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

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

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