

1 SB188
2 126833-1
3 By Senator Dial
4 RFD: Judiciary
5 First Read: 09-MAR-11

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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 against any person who commits arson, burglary, or
15 criminal mischief in any degree against religious
16 property, such as churches and cemeteries.

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 the crimes of arson, burglary, or criminal mischief in any
25 degree when committed against religious property.

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, to be secure and protected from threats
9 of reasonable fear, intimidation, harassment, and physical
10 harm caused by activities of groups and individuals.

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

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

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

25 "(c) A person who has been found guilty of a crime,
26 the commission of which was shown beyond a reasonable doubt to
27 have been motivated by the victim's actual or perceived race,

1 color, religion, national origin, ethnicity, or physical or
2 mental disability, shall be punished as 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, the sentence shall not be less than 15
8 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, the sentence shall not be less than 10
13 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, the sentence shall not be less than two
18 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, the
2 defendant shall be sentenced for a Class A misdemeanor, except
3 that the defendant shall be sentenced to a minimum of three
4 months.

5 "(d) Any person who commits any of the following
6 offenses against religious property, and because of the
7 religious character of that property, shall be subject to the
8 additional penalties under subsection (c):

9 "(1) Arson in the first degree pursuant to Section
10 13A-7-41, arson in the second degree pursuant to Section
11 13A-7-42, and arson in the third degree pursuant to Section
12 13A-7-43.

13 "(2) Burglary in the first degree pursuant to
14 Section 13A-7-5, burglary in the second degree pursuant to
15 Section 13A-7-6, and burglary in the third degree pursuant to
16 Section 13A-7-7.

17 "(3) Criminal mischief in the first degree pursuant
18 to Section 13A-7-21, criminal mischief in the second degree
19 pursuant to Section 13A-7-22, and criminal mischief in the
20 third degree pursuant to Section 13A-7-23.

21 "(e) For the purposes of this section, religious
22 property means any church, religious cemetery, or other place
23 of religious worship, including fixtures or religious objects
24 contained within a place of religious worship."

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

