

1 SB595
2 117948-1
3 By Senator Smitherman
4 RFD: Judiciary
5 First Read: 06-APR-10

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8 SYNOPSIS: Under existing law, additional penalties
9 are imposed against a person if the offense
10 committed is motivated by the victim's race, color,
11 religion, national origin, ethnicity, or physical
12 or mental 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.

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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.