

1 HB228  
2 178308-1  
3 By Representatives Rogers and Moore (M)  
4 RFD: Judiciary  
5 First Read: 14-FEB-17

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8 SYNOPSIS: Under existing law, additional criminal  
9 penalties are provided for crimes if an offense was  
10 motivated by the victim's actual or perceived race,  
11 color, religion, national origin, ethnicity, or  
12 physical or mental disability.

13 This bill would provide additional criminal  
14 penalties if an offense is motivated by the  
15 victim's actual or perceived employment as a law  
16 enforcement officer.

17 Amendment 621 of the Constitution of Alabama  
18 of 1901, now appearing as Section 111.05 of the  
19 Official Recompilation of the Constitution of  
20 Alabama of 1901, as amended, prohibits a general  
21 law whose purpose or effect would be to require a  
22 new or increased expenditure of local funds from  
23 becoming effective with regard to a local  
24 governmental entity without enactment by a 2/3 vote  
25 unless: it comes within one of a number of  
26 specified exceptions; it is approved by the  
27 affected entity; or the Legislature appropriates

1 funds, or provides a local source of revenue, to  
2 the entity for the purpose.

3 The purpose or effect of this bill would be  
4 to require a new or increased expenditure of local  
5 funds within the meaning of the amendment. However,  
6 the bill does not require approval of a local  
7 governmental entity or enactment by a 2/3 vote to  
8 become effective because it comes within one of the  
9 specified exceptions contained in the amendment.

10  
11 A BILL  
12 TO BE ENTITLED  
13 AN ACT

14  
15 Relating to hate crimes; to amend Section 13A-5-13,  
16 Code of Alabama 1975, to provide additional criminal penalties  
17 for offenses motivated by the victim's actual or perceived  
18 employment as a law enforcement officer; and in connection  
19 therewith would have as its purpose or effect the requirement  
20 of a new or increased expenditure of local funds within the  
21 meaning of Amendment 621 of the Constitution of Alabama of  
22 1901, now appearing as Section 111.05 of the Official  
23 Recompilation of the Constitution of Alabama of 1901, as  
24 amended.

25 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

26 Section 1. Section 13A-5-13, Code of Alabama 1975,  
27 is amended to read as follows:

1                   "§13A-5-13.

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

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

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 employment as a law enforcement officer,  
2 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, or employment as a law enforcement  
8 officer, the sentence 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 employment as a law enforcement  
13 officer, the sentence 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 employment as a law enforcement  
18 officer, the sentence shall not be less than two years.

19 "d. On conviction of a Class D felony that was found  
20 to have been motivated by the victim's actual or perceived  
21 race, color, religion, national origin, ethnicity, ~~or~~ physical  
22 or mental disability, or employment as a law enforcement  
23 officer, the sentence shall not be less than 18 months.

24 "e. For purposes of this subdivision, a criminal  
25 defendant who has been previously convicted of any felony and  
26 receives an enhanced sentence pursuant to this section is also

1 subject to enhanced punishment under the Alabama Habitual  
2 Felony Offender Act, Section 13A-5-9.

3 "(2) Misdemeanors:

4 "On conviction of a misdemeanor which was found  
5 beyond a reasonable doubt to have been motivated by the  
6 victim's actual or perceived race, color, religion, national  
7 origin, ethnicity, ~~or~~ physical or mental disability, or  
8 employment as a law enforcement officer, the defendant shall  
9 be sentenced for a Class A misdemeanor, except that the  
10 defendant shall be sentenced to a minimum of three months.

11 "(d) For the purposes of this section, "law  
12 enforcement officer" means an officer with the power of arrest  
13 who is employed with any state agency, department, board,  
14 commission, or institution or any municipality or county  
15 within this state."

16 Section 2. Although this bill would have as its  
17 purpose or effect the requirement of a new or increased  
18 expenditure of local funds, the bill is excluded from further  
19 requirements and application under Amendment 621, now  
20 appearing as Section 111.05 of the Official Recompilation of  
21 the Constitution of Alabama of 1901, as amended, because the  
22 bill defines a new crime or amends the definition of an  
23 existing crime.

24 Section 3. This act shall become effective on the  
25 first day of the third month following its passage and  
26 approval by the Governor, or its otherwise becoming law.