

1 HB52
2 179072-1
3 By Representatives Pettus, Hanes, Farley, Treadaway, Faulkner,
4 Nordgren, Ledbetter, Whorton (R), Wood and Patterson
5 RFD: Judiciary
6 First Read: 17-AUG-16

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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 engagement in the furtherance of public
16 safety in his or her official capacity without
17 regard to the victim's employment status as a law
18 enforcement officer, firefighter, emergency medical
19 services personnel, or rescue squad member.

20 Amendment 621 of the Constitution of Alabama
21 of 1901, now appearing as Section 111.05 of the
22 Official Recompilation of the Constitution of
23 Alabama of 1901, as amended, prohibits a general
24 law whose purpose or effect would be to require a
25 new or increased expenditure of local funds from
26 becoming effective with regard to a local
27 governmental entity without enactment by a 2/3 vote

1 unless: it comes within one of a number of
2 specified exceptions; it is approved by the
3 affected entity; or the Legislature appropriates
4 funds, or provides a local source of revenue, to
5 the entity for the purpose.

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

13
14 A BILL
15 TO BE ENTITLED
16 AN ACT

17
18 Relating to hate crimes; to amend Section 13A-5-13,
19 Code of Alabama 1975, to provide additional criminal penalties
20 for offenses motivated by the victim's actual or perceived
21 employment as a law enforcement officer; and in connection
22 therewith would have as its purpose or effect the requirement
23 of a new or increased expenditure of local funds within the
24 meaning of Amendment 621 of the Constitution of Alabama of
25 1901, now appearing as Section 111.05 of the Official
26 Recompilation of the Constitution of Alabama of 1901, as
27 amended.

1 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

2 Section 1. This act shall be known and cited as the
3 Officer Justin D. Sollohub Act.

4 Section 2. Section 13A-5-13, Code of Alabama 1975,
5 is amended to read as follows:

6 "§13A-5-13.

7 "(a) The Legislature finds and declares the
8 following:

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

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

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

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

1 engagement in the furtherance of public safety in his or her
2 official capacity without regard to the victim's employment
3 status as a law enforcement officer, firefighter, emergency
4 medical services personnel, or rescue squad member.

5 " (c) A person who has been found guilty of a crime,
6 the commission of which was shown beyond a reasonable doubt to
7 have been motivated by the victim's actual or perceived race,
8 color, religion, national origin, ethnicity, ~~or~~ physical or
9 mental disability, or engagement in the furtherance of public
10 safety in his or her official capacity without regard to the
11 victim's employment status as a law enforcement officer,
12 firefighter, emergency medical services personnel, or rescue
13 squad member, shall be punished as follows:

14 "(1) Felonies:

15 "a. On conviction of a Class A felony that was found
16 to have been motivated by the victim's actual or perceived
17 race, color, religion, national origin, ethnicity, ~~or~~ physical
18 or mental disability, or engagement in the furtherance of
19 public safety in his or her official capacity without regard
20 to the victim's employment status as a law enforcement
21 officer, firefighter, emergency medical services personnel, or
22 rescue squad member, the sentence shall not be less than 15
23 years.

24 "b. On conviction of a Class B felony that was found
25 to have been motivated by the victim's actual or perceived
26 race, color, religion, national origin, ethnicity, ~~or~~ physical
27 or mental disability, or engagement in the furtherance of

1 public safety in his or her official capacity without regard
2 to the victim's employment status as a law enforcement
3 officer, firefighter, emergency medical services personnel, or
4 rescue squad member, the sentence shall not be less than 10
5 years.

6 "c. On conviction of a Class C felony that was found
7 to have been motivated by the victim's actual or perceived
8 race, color, religion, national origin, ethnicity, ~~or~~ physical
9 or mental disability, or engagement in the furtherance of
10 public safety in his or her official capacity without regard
11 to the victim's employment status as a law enforcement
12 officer, firefighter, emergency medical services personnel, or
13 rescue squad member, the sentence shall not be less than two
14 years.

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

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

25 "(2) Misdemeanors:

26 "On conviction of a misdemeanor which was found
27 beyond a reasonable doubt to have been motivated by the

1 victim's actual or perceived race, color, religion, national
2 origin, ethnicity, ~~or~~ physical or mental disability or
3 engagement in the furtherance of public safety in his or her
4 official capacity without regard to the victim's employment
5 status as a law enforcement officer, firefighter, emergency
6 medical services personnel, or rescue squad member, the
7 defendant shall be sentenced for a Class A misdemeanor, except
8 that the defendant shall be sentenced to a minimum of three
9 months."

10 Section 3. Although this bill would have as its
11 purpose or effect the requirement of a new or increased
12 expenditure of local funds, the bill is excluded from further
13 requirements and application under Amendment 621, now
14 appearing as Section 111.05 of the Official Recompilation of
15 the Constitution of Alabama of 1901, as amended, because the
16 bill defines a new crime or amends the definition of an
17 existing crime.

18 Section 4. This act shall become effective on the
19 first day of the third month following its passage and
20 approval by the Governor, or its otherwise becoming law.