

GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2005

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SENATE DRS75128-LH-80 (02/23)

Short Title: Hate Crimes/Matthew Shepard.

(Public)

Sponsors: Senator Lucas.

Referred to:

A BILL TO BE ENTITLED

AN ACT TO HONOR THE MEMORY OF MATTHEW SHEPARD BY EXPANDING  
THE SCOPE OF THE HATE CRIME LAWS AND INCREASING THE  
CRIMINAL PENALTY FOR COMMITTING A HATE CRIME.

Whereas, Matthew Shepard was seemingly a victim of a hate crime, his  
sexual orientation being the apparent reason for his murder; and

Whereas, Matthew Shepard was recently a resident of this State and lived in  
Raleigh for about a year; and

Whereas, violent crime is abhorrent, and violent criminal acts based on a  
person's group membership are particularly unacceptable in a civil society; Now,  
therefore,

The General Assembly of North Carolina enacts:

**SECTION 1.** G.S. 14-3 reads as rewritten:

**"§ 14-3. Punishment of misdemeanors, infamous offenses, offenses committed in  
secrecy and malice, or with deceit and intent to defraud, or with ~~ethnie~~  
~~animosity~~animosity based upon ethnicity, gender, age, sexual  
orientation, or disability; punishment of felony committed with  
animosity based upon ethnicity, gender, age, sexual orientation, or  
disability.**

(a) Except as provided in subsections (b) and (c), every person who shall be  
convicted of any misdemeanor for which no specific classification and no specific  
punishment is prescribed by statute shall be punishable as a Class 1 misdemeanor. Any  
misdemeanor that has a specific punishment, but is not assigned a classification by the  
General Assembly pursuant to law is classified as follows, based on the maximum  
punishment allowed by law for the offense as it existed on the effective date of Article  
81B of Chapter 15A of the General Statutes:

- 1 (1) If that maximum punishment is more than six months imprisonment, it  
2 is a Class 1 misdemeanor;
- 3 (2) If that maximum punishment is more than 30 days but not more than  
4 six months imprisonment, it is a Class 2 misdemeanor; and
- 5 (3) If that maximum punishment is 30 days or less imprisonment or only a  
6 fine, it is a Class 3 misdemeanor.

7 Misdemeanors that have punishments for one or more counties or cities pursuant to a  
8 local act of the General Assembly that are different from the generally applicable  
9 punishment are classified pursuant to this subsection if not otherwise specifically  
10 classified.

11 (b) If a misdemeanor offense as to which no specific punishment is prescribed be  
12 infamous, done in secrecy and malice, or with deceit and intent to defraud, the offender  
13 shall, except where the offense is a conspiracy to commit a misdemeanor, be guilty of a  
14 Class H felony.

15 (c) If any Class 2 or Class 3 misdemeanor is committed because of the victim's  
16 real or perceived race, color, religion, nationality, gender, sexual orientation, disability,  
17 age, or country of origin, the offender shall be guilty of a Class 1 misdemeanor. If any  
18 Class A1 or Class 1 misdemeanor offense is committed because of the victim's real or  
19 perceived race, color, religion, nationality, gender, sexual orientation, disability, age, or  
20 country of origin, the offender shall be guilty of a Class I felony.

21 (d) If any felony is committed because of the victim's real or perceived race,  
22 color, religion, nationality, gender, sexual orientation, disability, age, or country of  
23 origin, the offender shall be punished at the sentencing level that is one level higher than  
24 that authorized by the offender's prior record level.

25 (e) For purposes of this section, the term "sexual orientation" means actual or  
26 perceived heterosexuality, homosexuality, bisexuality, or gender-related identity or  
27 expression. The term does not include a physical or sexual attraction to a minor by an  
28 adult.

29 **SECTION 2.** G.S. 14-401.14 reads as rewritten:

30 "**§ 14-401.14. Ethnic intimidation; teaching any technique to be used for ethnic**  
31 **intimidation.**

32 (a) If a person shall, because of real or perceived race, color, religion, nationality,  
33 gender, sexual orientation, disability, age, or country of origin, assault another person,  
34 or damage or deface the property of another person, or threaten to do any such act, ~~he~~  
35 the offender shall be guilty of a Class 1 misdemeanor.

36 (b) A person who assembles with one or more persons to teach any technique or  
37 means to be used to commit any act in violation of subsection (a) of this section is guilty  
38 of a Class 1 misdemeanor.

39 (c) For purposes of this section, the term "sexual orientation" has the same  
40 definition as G.S. 14-3(e).

41 **SECTION 3.** G.S. 15A-1340.16(d)(17) reads as rewritten:

42 "(17) The offense for which the defendant stands convicted was committed  
43 against a victim because of the victim's real or perceived race, color,  
44 religion, nationality, gender, sexual orientation, disability, age, or

1                                   country of origin. For purposes of this subdivision, the term "sexual  
2                                   orientation" has the same definition as G.S. 14-3(e)."

3                    **SECTION 4.** This act becomes effective December 1, 2005, and applies to  
4 offenses committed on or after that date.