

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2005

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SENATE BILL 485

Short Title: Hate Crimes/Matthew Shepard. (Public)

Sponsors: Senators Lucas; Atwater, Berger of Franklin, Cowell, Dannelly, Dorsett, Graham, Kinnaird, and Malone.

Referred to: Judiciary II.

March 10, 2005

A BILL TO BE ENTITLED

1 AN ACT TO HONOR THE MEMORY OF MATTHEW SHEPARD BY EXPANDING
2 THE SCOPE OF THE HATE CRIME LAWS AND INCREASING THE
3 CRIMINAL PENALTY FOR COMMITTING A HATE CRIME.
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5 Whereas, Matthew Shepard was seemingly a victim of a hate crime, his
6 sexual orientation being the apparent reason for his murder; and

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

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

12 The General Assembly of North Carolina enacts:

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

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

20 (a) Except as provided in subsections (b) and (c), every person who shall be
21 convicted of any misdemeanor for which no specific classification and no specific
22 punishment is prescribed by statute shall be punishable as a Class 1 misdemeanor. Any
23 misdemeanor that has a specific punishment, but is not assigned a classification by the
24 General Assembly pursuant to law is classified as follows, based on the maximum
25 punishment allowed by law for the offense as it existed on the effective date of Article
26 81B of Chapter 15A of the General Statutes:

27 (1) If that maximum punishment is more than six months imprisonment, it
28 is a Class 1 misdemeanor;

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

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

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

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

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

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

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

28 "**§ 14-401.14. Ethnic intimidation; teaching any technique to be used for ethnic**
29 **intimidation.**

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

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

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

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

40 "(17) The offense for which the defendant stands convicted was committed
41 against a victim because of the victim's real or perceived race, color,
42 religion, nationality, gender, sexual orientation, disability, age, or
43 country of origin. For purposes of this subdivision, the term "sexual
44 orientation" has the same definition as G.S. 14-3(e)."

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