

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2009

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HOUSE BILL 207

Short Title: Safer Communities Act. (Public)

Sponsors: Representatives Harrison, Insko, Cotham, Glazier (Primary Sponsors); Adams, K. Alexander, M. Alexander, Bryant, Fisher, E. Floyd, Hall, Jeffus, Lucas, Luebke, Mackey, Martin, Wainwright, and Weiss.

Referred to: Judiciary I, if favorable, Appropriations.

February 18, 2009

A BILL TO BE ENTITLED

AN ACT TO MAKE OUR COMMUNITIES SAFER BY EXPANDING THE SCOPE OF THE ETHNIC INTIMIDATION ACT AND INCREASING THE CRIMINAL PENALTIES FOR COMMITTING AN ACT OF ETHNIC INTIMIDATION.

Whereas, crimes committed with animosity based upon race, religion, national origin, gender, age, sexual orientation, or disability are intended to intimidate certain groups of North Carolinians and to send a message to those groups that they are not welcome and are unsafe in our communities; and

Whereas, crimes based on sexual orientation have more than doubled since the FBI began collecting statistics in 1991; and

Whereas, in 2005, the FBI reported 1,017 offenses committed against individuals based on sexual orientation. This is the second most frequent category of bias-related crimes, only behind racially motivated crimes; and

Whereas, 33 states and the District of Columbia have passed laws that address bias-motivated crimes based on sexual orientation; and

Whereas, several bias-related crimes based on sexual orientation have been documented in North Carolina in recent years, despite voluntary, incomplete reporting; and

Whereas, violent crime is abhorrent, and violent criminal acts based on a person's race, religion, national origin, gender, age, sexual orientation, or disability 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 ethnic 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) If that maximum punishment is more than six months imprisonment, it is a Class 1 misdemeanor;



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

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

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

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

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

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

22 "**§ 14-401.14. Ethnic intimidation; teaching any technique to be used for ethnic**
23 **intimidation.**

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

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

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

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

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

39 **SECTION 4.** This act becomes effective December 1, 2009, and applies to
40 offenses committed on or after that date.