

2021 -- H 6455

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LC003006  
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STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2021

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A N A C T

RELATING TO CRIMINAL PROCEDURE -- SENTENCE AND EXECUTION

Introduced By: Representatives Williams, Alzate, Vella-Wilkinson, Morales, Henries,  
Biah, Giraldo, Barros, Shallcross Smith, and Craven

Date Introduced: June 22, 2021

Referred To: House Judiciary

It is enacted by the General Assembly as follows:

1           SECTION 1. Section 12-19-38 of the General Laws in Chapter 12-19 entitled "Sentence  
2 and Execution" is hereby amended to read as follows:

3           **12-19-38. Hate Crimes Sentencing Act.**

4           (a) If any person has been convicted of a crime charged by complaint, information, or  
5 indictment in which he or she intentionally selected the person against whom the offense is  
6 committed or selected the property that is damaged or otherwise affected by the offense because of  
7 the actor's hatred or animus toward the actual or perceived disability, religion, color, race, national  
8 origin or ancestry, sexual orientation, or gender of that person or the owner or occupant of that  
9 property, he or she shall be subject to the penalties provided in this section.

10           (b) Whenever it appears that a person may be subject to the Hate Crime Sentencing Act,  
11 the prosecuting agency, in no case later than the pretrial conference, shall file with the court a notice  
12 specifying that the defendant, upon conviction, is subject to the imposition of sentencing in  
13 accordance with this section.

14           (c) For [petty misdemeanor or](#) misdemeanor offenses, upon any plea of guilty or nolo  
15 contendere or verdict or finding of guilty of the defendant, the district court shall conduct a  
16 sentencing hearing. At the hearing, the court shall permit the prosecuting agency and the defense  
17 to present additional evidence relevant to the determination of whether the defendant intentionally  
18 selected the person against whom the offense is committed, or selected the property that is  
19 damaged, or otherwise affected by the offense because of his or her hatred or animus toward the

1 actual or perceived race, religion, color, disability, national origin or ethnicity, gender, or sexual  
2 orientation of that person or the owner or occupant of that property. If the finder of fact at the  
3 hearing, or in the case of a plea of guilty or nolo contendere, the district court at sentencing,  
4 determines beyond a reasonable doubt that the defendant's actions were so motivated, he or she  
5 shall be sentenced to not less than thirty (30) days mandatory imprisonment, nor more than one  
6 year imprisonment for that crime: and for this penalty, he or she shall not be afforded the provisions  
7 of filing, suspension of sentence, or probation.

8 (d) For felony offenses and for misdemeanor offenses in which the defendant claims a jury  
9 trial either in the first instance or by appeal, upon any plea of guilt or nolo contendere or verdict or  
10 finding of guilt of the defendant, the court shall conduct a sentencing hearing. At the hearing, the  
11 court shall permit the prosecuting agency and the defense to present additional evidence to the jury  
12 relevant to the determination of whether the defendant intentionally selected the person against  
13 whom the offense is committed, or selected the property that is damaged, or otherwise affected by  
14 the offense because of his or her hatred or animus toward the actual or perceived race, religion,  
15 color, disability, national origin or ethnicity, gender, or sexual orientation of that person or the  
16 owner or occupant of that property. If the jury at the hearing, or in the case of a plea of guilty or  
17 nolo contendere, the court at sentencing, determines beyond a reasonable doubt that the defendant's  
18 actions were so motivated, he or she shall be sentenced for a misdemeanor in accordance with  
19 subsection (c) of this section and for a felony by the court to an additional, consecutive term of  
20 imprisonment for not less than one year nor more than five (5) years, but in no case, more than  
21 double the original penalty for the crime.

22 SECTION 2. This act shall take effect upon passage.

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EXPLANATION  
BY THE LEGISLATIVE COUNCIL  
OF

A N A C T

RELATING TO CRIMINAL PROCEDURE -- SENTENCE AND EXECUTION

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1           This act would make the hate crime sentencing enhancement applicable to petty  
2 misdemeanors.

3           This act would take effect upon passage.

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