

STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2022

A N A C T

RELATING TO CRIMINAL PROCEDURE -- SENTENCE AND EXECUTION

Introduced By: Representatives Williams, Giraldo, Felix, Alzate, and Morales

Date Introduced: March 02, 2022

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) Hate crimes are crimes motivated by the offender's bias toward their intended victim
5 because of the victim's membership in a protected group. A hate crime shall be any criminal act
6 coupled with overt actions motivated by bigotry and bias which is motivated at least in part by
7 animus toward the actual or perceived disability, religion, color, race, national origin or ancestry,
8 sexual orientation, gender or gender identity of that person or the owner or occupant of property
9 that is targeted because of its ownership, occupancy or use by a member of a protected group. A
10 hate crime may also be any act which deprives a person of their constitutional rights by threats,
11 intimidation or coercion or which seeks to interfere with or disrupt the exercise of those
12 constitutional rights.

13 (b) A person is guilty of a hate crime if they intentionally select the person or property
14 against whom the offense is committed or intended to be committed in whole or in substantial part
15 because of a belief or perception regarding the victim's membership in a protected group.

16 (c) Proof of disability, religion, color, race, national origin or ancestry, sexual orientation,
17 gender or gender identity of the offender, the victim or both, by itself, does not constitute legally
18 sufficient evidence that an offense was motivated by hate or animus toward the victim because of
19 their membership in a protected group.

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

8 ~~(b)~~(e) Whenever it appears that a person may be subject to the Hate Crime Sentencing Act,
9 the prosecuting agency, in no case later than ~~the pretrial conference~~ thirty (30) days after the
10 defendant's arraignment, shall file with the court a notice specifying that the defendant, upon
11 conviction, is subject to the imposition of sentencing in accordance with this section.

12 ~~(c)~~(f) For petty misdemeanor or misdemeanor offenses, upon any plea of guilty or nolo
13 contendere or verdict or finding of guilty of the defendant, the district court shall conduct a
14 sentencing hearing. At the hearing, the court shall permit the prosecuting agency and the defense
15 to present additional evidence relevant to the determination of whether the defendant intentionally
16 selected the person against whom the offense is committed, or selected the property that is
17 damaged, or otherwise affected by the offense because of his or her hatred or animus toward the
18 actual or perceived race, religion, color, disability, national origin or ethnicity, gender, gender
19 identity, or sexual orientation of that person or the owner or occupant of that property. If the finder
20 of fact at the hearing, or in the case of a plea of guilty or nolo contendere, the district court at
21 sentencing, determines beyond a reasonable doubt that the defendant's actions were so motivated,
22 he or she shall be sentenced to not less than thirty (30) days mandatory imprisonment, nor more
23 than one year imprisonment for ~~that crime~~ any misdemeanor nor more than six (6) months for any
24 petty misdemeanor; and for this penalty, he or she shall not be afforded the provisions of filing,
25 suspension of sentence, or probation.

26 ~~(d)~~(g) For felony offenses and for petty misdemeanor or misdemeanor offenses in which
27 the defendant claims a jury trial either in the first instance or by appeal, upon any plea of guilt or
28 nolo contendere or verdict or finding of guilt of the defendant, the court shall conduct a sentencing
29 hearing. At the hearing, the court shall permit the prosecuting agency and the defense to present
30 additional evidence to the jury relevant to the determination of whether the defendant intentionally
31 selected the person against whom the offense is committed, or selected the property that is
32 damaged, or otherwise affected by the offense because of his or her hatred or animus toward the
33 actual or perceived race, religion, color, disability, national origin or ethnicity, gender, gender
34 identity, or sexual orientation of that person or the owner or occupant of that property. If the jury

1 at the hearing, or in the case of a plea of guilty or nolo contendere, the court at sentencing,
2 determines beyond a reasonable doubt that the defendant's actions were so motivated, he or she
3 shall be sentenced for a petty misdemeanor or misdemeanor in accordance with subsection ~~(e)~~(f)
4 of this section and for a felony by the court to an additional, consecutive term of imprisonment for
5 not less than one year nor more than five (5) years, but in no case, more than double the original
6 penalty for the crime.

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

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EXPLANATION
BY THE LEGISLATIVE COUNCIL
OF
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1 This act would define hate crimes, provide that proof of one's membership in a protected
2 group in and of itself is not sufficient to prove hate or animus and make the hate crime sentencing
3 enhancement applicable to petty misdemeanors.

4 This act would take effect upon passage.

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