

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2007

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HOUSE BILL 1631

Short Title: Safer Communities Act.

(Public)

Sponsors: Representatives Harrison, Insko, Fisher, Jones (Primary Sponsors);
Alexander, Bryant, Carney, Coleman, Cotham, Farmer-Butterfield, Hall,
T. Harrell, Jeffus, Luebke, Martin, Wainwright, Weiss, and Womble.

Referred to: Judiciary I.

April 19, 2007

A BILL TO BE ENTITLED

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

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

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

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

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

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

19 Whereas, violent crime is abhorrent, and violent criminal acts based on a
20 person's race, religion, national origin, gender, age, sexual orientation, or disability are
21 particularly unacceptable in a civil society; Now, therefore,

22 The General Assembly of North Carolina enacts:

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

24 "**§ 14-3. Punishment of misdemeanors, infamous offenses, offenses committed in**
25 **secrecy and malice, or with deceit and intent to defraud, or with ethnic**
26 **animosity. animosity based upon ethnicity, gender, age, sexual**
27 **orientation, or disability; punishment of felony committed with**

1 animosity based upon ethnicity, gender, age, sexual orientation, or
2 disability.

3 (a) Except as provided in subsections (b) and (c), every person who shall be
4 convicted of any misdemeanor for which no specific classification and no specific
5 punishment is prescribed by statute shall be punishable as a Class 1 misdemeanor. Any
6 misdemeanor that has a specific punishment, but is not assigned a classification by the
7 General Assembly pursuant to law is classified as follows, based on the maximum
8 punishment allowed by law for the offense as it existed on the effective date of Article
9 81B of Chapter 15A of the General Statutes:

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

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

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

24 (c) If any Class 2 or Class 3 misdemeanor is committed because of the victim's
25 real or perceived race, color, religion, nationality, gender, sexual orientation, disability,
26 age, or country of origin, the offender shall be guilty of a Class 1 misdemeanor. If any
27 Class A1 or Class 1 misdemeanor offense is committed because of the victim's real or
28 perceived race, color, religion, nationality, gender, sexual orientation, disability, age, or
29 country of origin, the offender shall be guilty of a Class I felony.

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

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

35 **"§ 14-401.14. Ethnic intimidation; teaching any technique to be used for ethnic**
36 **intimidation.**

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

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

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

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

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

9 **SECTION 4.** This act becomes effective December 1, 2007, and applies to
10 offenses committed on or after that date.