

Stricken language would be deleted from present law. Underlined language would be added to present law.

1 State of Arkansas
2 81st General Assembly
3 Regular Session, 1997

As Engrossed: H2/27/97

A Bill

HOUSE BILL 1576

4

5 By: Representatives Roberts, Terry Smith, Wilson, Bennett, Madison, Judy Smith, Jones, McGee, Flanagan, Malone, and Mullenix

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For An Act To Be Entitled

9 "AN ACT TO PROVIDE FOR ENHANCED PENALTIES FOR MISDEMEANOR
10 OFFENSES COMMITTED BY REASON OF THE VICTIMS RACE, COLOR,
11 ANCESTRY, ETHNICITY, RELIGION, NATIONAL ORIGIN, OR GENDER;
12 AND FOR OTHER PURPOSES."

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Subtitle

15 "TO PROVIDE ENHANCED PENALTIES FOR
16 MISDEMEANOR OFFENSES COMMITTED BY REASON
17 OF THE VICTIMS RACE, COLOR, ANCESTRY,
18 ETHNICITY, RELIGION, NATIONAL ORIGIN, OR
19 GENDER"

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21 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

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23 SECTION 1. The penalty for any of the misdemeanors enumerated in
24 Section 2 of this act shall be subject to enhancement if the misdemeanor was
25 committed because of the race, color, ancestry, ethnicity, religion, national
26 origin, or gender of the victim.

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28 SECTION 2. The penalties for the following misdemeanor offenses shall
29 be subject to enhancement under this act: false imprisonment in the second
30 degree; battery in the third degree; assault in the first degree; assault in
31 the second degree; assault in the third degree; coercion; terroristic
32 threatening in the second degree; criminal mischief in the first degree (when
33 charged as a misdemeanor); criminal mischief in the second degree (when
34 charged as a misdemeanor); criminal trespass; disorderly conduct; harassment;
35 harassing communications; communicating a false alarm (when charged as a
36 misdemeanor); threatening a fire or bombing (when charged as a misdemeanor);

1 obstructing a highway or other public passage; defacing objects of public
2 respect (when charged as a misdemeanor).

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4 SECTION 3. (a) In order to impose an enhanced penalty for the offenses
5 enumerated in Section 2, the trial judge or jury on appeal must find, in
6 addition to the elements of the offense charged, beyond a reasonable doubt:

7 (1) That the defendant knew that the victim was within the class
8 delineated; and

9 (2) That the defendant maliciously and with specific intent
10 committed the offense because the victim was within the class delineated.

11 (b) That the victim was within the class delineated means that the
12 reason the underlying crime was committed was the victims race, color,
13 ancestry, ethnicity, religion, national origin, or gender.

14 (c) For the purpose of this act, "victim" shall include the owner of
15 property damaged, defaced, or disturbed by the defendant; the officers of a
16 corporation which owned property damaged, defaced, or disturbed by the
17 defendant; the occupants or usual residents of any building or vehicle which
18 was the subject of a criminal act by the defendant; the members or congregants
19 of any place of worship or religious study, or the members of any religious,
20 fraternal, or social organization, association, corporation or club when the
21 defendants criminal act was directed against the place of worship or
22 religious study or property owned, leased or possessed by such religious,
23 fraternal, or social organization, association, corporation or club.

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25 SECTION 4. In the event it is found beyond a reasonable doubt that the
26 offense was committed by reason of the race, color, ancestry, ethnicity,
27 religion, national origin, or gender of the victim, then the penalty for the
28 offense may be enhanced as follows: For a Class A misdemeanor, the sentence
29 shall be enhanced to that of an unclassified felony offense and shall not
30 exceed two (2) years or a fine not to exceed five thousand dollars (\$5,000),
31 or both; for a Class B or C misdemeanor, the sentence shall be enhanced to
32 that of a Class A misdemeanor and shall not exceed one (1) year or a fine not
33 to exceed one thousand dollars (\$1,000), or both.

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35 SECTION 5. In addition to any other sentence authorized by law, in the
36 event it is found beyond a reasonable doubt that the offense was committed by

1 reason of the race, color, ancestry, ethnicity, religion, national origin, or
2 gender of the victim, the court may require that the defendant satisfy any
3 other conditions reasonably related to the defendant's rehabilitation. Such
4 conditions may include community service, attending educational programs, and
5 participating in therapy programs.

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7 SECTION 6. All provisions of this act of a general and permanent nature
8 are amendatory to the Arkansas Code of 1987 Annotated and the Arkansas Code
9 Revision Commission shall incorporate the same in the Code.

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11 SECTION 7. If any provision of this act or the application thereof to
12 any person or circumstance is held invalid, such invalidity shall not affect
13 other provisions or applications of the act which can be given effect without
14 the invalid provision or application, and to this end the provisions of this
15 act are declared to be severable.

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17 SECTION 8. All laws and parts of laws in conflict with this act are
18 hereby repealed.

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20 /s/Rep. Roberts, et al

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