Stricken language would be deleted from and underlined language would be added to the law as it existed prior to this session of the General Assembly.

1	State of Arkansas	As Engrossed: \$1/18/01 \$1/30/01 \$2/1/01		
2	83rd General Assembly	A Bill		
3	Regular Session, 2001		SENATE BILL	35
4				
5	By: Senators B. Walker, Be	eebe, Wilkins, Riggs, P. Malone, Simes, K. Smith, Fite	ch	
6	By: Representatives T. Steele, Broadway, C. Johnson, White, Jones, L. Thomas, J. Lewellen, Goss,			
7	Clemons			
8				
9				
10	For An Act To Be Entitled			
11	AN ACT TO	PROVIDE ENHANCED PENALTIES FOR CRIMINA	۱L	
12	OFFENSES	COMMITTED BECAUSE OF THE VICTIM'S RACE,		
13	COLOR, RE	ELIGION, ETHNICITY, ANCESTRY, NATIONAL C	IRI GI N,	
14	SEXUAL OF	RIENTATION, GENDER, OR DISABILITY; AND F	OR	
15	OTHER PUR	RPOSES.		
16				
17		Subtitle		
18	AN .	ACT TO PROVIDE ENHANCED PENALTIES FOR		
19	CRI	MINAL OFFENSES COMMITTED BECAUSE OF		
20	THE	VICTIM'S RACE, COLOR, RELIGION,		
21	ETH	NICITY, ANCESTRY, NATIONAL ORIGIN,		
22	SEX	UAL ORI ENTATI ON, GENDER, OR		
23	DI S	ABI LI TY.		
24				
25				
26	BE IT ENACTED BY THE	GENERAL ASSEMBLY OF THE STATE OF ARKANS	AS:	
27				
28	SECTION 1. For	purposes of this act:		
29	(1) "Because d	of" means that:		
30	<u>(</u> A) The	bias motivation was a cause in fact of	the criminal	
31	offense, regardless o	of whether other causes also existed; an	ıd	
32	(B) Wher	n multiple concurrent motives existed, t	he bias motivati	i on
33	was a substantial factor in the commission of the criminal offense;			
34	<u>(2)(A)</u> "Di sabi	lity" means a physical or mental impair	ment that	
35	substantially limits a major life function.			
36	<u>(B)</u> "Dis	sability" does not mean:		



1	<u>(i) Compulsive gambling;</u>		
2	<u>(ii) Kleptomania;</u>		
3	<u>(iii) Pyromania;</u>		
4	<u>(iv) Current use of illegal drugs or psychoactive substance</u>		
5	use disorders resulting from illegal use of drugs; or		
6	(v) Alcoholism;		
7	<u>(3) "Sexual orientation" means heterosexuality, homosexuality, or</u>		
8	bisexuality; and		
9	(4) "Purposely selects the victim" does not mean, and may not be proved		
10	by evidence, that a defendant's mere abstract beliefs or expressions were		
11	hostile or contrary to the victim's traits enumerated in Section 2 herein, or		
12	<u>that a defendant is or was associated with a group opposed to the victim's</u>		
13	traits enumerated in Section 2 herein, unless such belief, expression, or		
14	association was part of the chain of events leading to the criminal offense.		
15			
16	SECTION 2. <u>A person shall be subject to enhanced criminal penalties if</u>		
17	the person <i>purposely</i> selects the victim of a criminal offense because of the		
18	victim's actual or perceived:		
19	<u>(1) Race;</u>		
20	(2) Color;		
21	(3) Religion;		
22	(4) Ethnicity;		
23	(5) Ancestry;		
24	<u>(6) National origin;</u>		
25	(7) Sexual orientation;		
26	(8) Gender, except for criminal offenses in Chapters 14 and 26 of Title		
27	<u>5 of the Arkansas Code; or</u>		
28	<u>(9) Disability.</u>		
29			
30	SECTION 3. (a) If a person pleads guilty, nolo contendere, or is found		
31	guilty of any criminal offense, and the trier of fact determines beyond a		
32	reasonable doubt at the sentencing phase of the bifurcated trial that the		
33	person purposely selected the victim of the offense because of the victim's		
34	<u>actual or perceived race, color, religion, ethnicity, ancestry, national</u>		
35	origin, sexual orientation, gender, or disability, then the penalty range for		
36	the offense shall be increased.		

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1	(b) Upon a finding of guilt or a plea of guilty or nolo
2	contendere to any felony or misdemeanor, the minimum and maximum penalties for
3	the crime, including the amount of any fine and the length of any term of
4	imprisonment or period of probation or suspended imposition of sentence, shall
5	be increased by twenty percent (20%). The penalty enhancement shall not
6	exceed twenty percent (20%) regardless of the number of motives underlying the
7	<u>commission of the crime.</u>
8	(c) To seek the enhanced penalties established by this section, a
9	prosecuting attorney shall file, with the court, written notice in the
10	information or indictment indicating that the person, upon a finding of guilt,
11	is subject to the enhanced penalties.
12	(d) The Arkansas Rules of Evidence shall apply during the penalty
13	phase, at which time the trier of fact shall consider evidence regarding
14	whether the defendant purposely selected the victim of the offense because of
15	the victim's actual or perceived race, color, religion, ethnicity, ancestry,
16	<u>national origin, sexual orientation, gender, or disability.</u>
17	<u>(e) During the penalty phase, the trier of fact must determine</u>
18	beyond a reasonable doubt that the defendant purposely selected the victim of
19	the offense because of the victim's actual or perceived race, color, religion,
20	<u>ethnicity, ancestry, national origin, sexual orientation, gender, or</u>
21	disability in order for the defendant to receive an enhanced penalty provided
22	in this section.
23	/s/ B. Walker
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