

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2017

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HOUSE BILL 711

Short Title: Increase Hate Crime Punishment. (Public)

Sponsors: Representatives Murphy, Stevens, and Faircloth (Primary Sponsors).
For a complete list of sponsors, refer to the North Carolina General Assembly web site.

Referred to: Judiciary I, if favorable, Rules, Calendar, and Operations of the House

April 11, 2017

1 A BILL TO BE ENTITLED
2 AN ACT TO INCREASE THE PUNISHMENT FOR HATE CRIMES.

3 The General Assembly of North Carolina enacts:

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

5 "**§ 14-3. Punishment of misdemeanors, infamous offenses, offenses committed in secrecy**
6 **and malice, or with deceit and intent to defraud, or with ethnic**
7 **animosity against certain victims.**

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

- 15 (1) If that maximum punishment is more than six months imprisonment, it is a
16 Class 1 misdemeanor;
17 (2) If that maximum punishment is more than 30 days but not more than six
18 months imprisonment, it is a Class 2 misdemeanor; and
19 (3) If that maximum punishment is 30 days or less imprisonment or only a fine,
20 it is a Class 3 misdemeanor.

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

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

28 (c) ~~If any Class 2 or Class 3 misdemeanor is committed because of the victim's race,~~
29 ~~color, religion, nationality, or country of origin, the offender shall be guilty of a Class 1~~
30 ~~misdemeanor. If any Class A1 or Class 1 misdemeanor offense is committed because of the~~
31 ~~victim's race, color, religion, nationality, or country of origin, the offender shall be guilty of a~~
32 ~~Class H felony.~~ Any person who commits a misdemeanor in whole or in substantial part
33 because of one or more of the following actual or perceived characteristics of the victim shall
34 be punished as provided in subsection (d) of this section:

- 35 a. Race.



- 1 **b.** Color.
 2 **c.** Religion.
 3 **d.** Age.
 4 **e.** Nationality, national origin, or country of origin.
 5 **f.** Disability.
 6 **g.** Military or veteran status.
 7 **h.** Employment status or position.
 8 **i.** Socioeconomic status.
 9 **j.** Political affiliation.
 10 **k.** Association with a person or group with one or more of these actual
 11 characteristics.

12 **(d)** If the offense committed under subsection (c) of this section is a Class 2 or Class 3
 13 misdemeanor, the offender shall be guilty of a Class A1 misdemeanor. If the offense committed
 14 under subsection (c) of this section is a Class A1 or Class 1 misdemeanor, the offender shall be
 15 guilty of a Class H felony."

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

17 **"§ 14-401.14. ~~Ethnic intimidation;~~Intimidation of certain victims; teaching any technique**
 18 **to be used for ~~ethnic intimidation.~~intimidation of certain victims.**

19 **(a)** If a person shall, because of race, color, religion, nationality, or country of origin,
 20 assault another person, or damage or deface the property of another person, or threaten to do
 21 any such act, he shall be guilty of a Class 1 misdemeanor. A person shall be guilty of a Class H
 22 felony if the person assaults another person or damages or defaces the property of another
 23 person in whole or in substantial part because of one or more of the following actual or
 24 perceived characteristics of the victim:

- 25 **a.** Race.
 26 **b.** Color.
 27 **c.** Religion.
 28 **d.** Age.
 29 **e.** Nationality, national origin, or country of origin.
 30 **f.** Disability.
 31 **g.** Military or veteran status.
 32 **h.** Employment status or position.
 33 **i.** Socioeconomic status.
 34 **j.** Political affiliation.
 35 **k.** Association with a person or group with one or more of these actual
 36 characteristics.

37 **(b)** A person who assembles with one or more persons to teach any technique or means
 38 to be used to commit any act in violation of subsection (a) of this section is guilty of a ~~Class~~
 39 ~~Class A1~~ misdemeanor."

40 **SECTION 3.** Article 81B of Chapter 15A of the General Statutes is amended by
 41 adding a new section to read:

42 **"§ 15A-1340.16E. Enhanced sentence if defendant is convicted of a felony against certain**
 43 **victims.**

44 **(a)** If a person is convicted of a felony and it is found as provided in this section that the
 45 offense was committed as provided in subsection (b) of this section, then the person is guilty of
 46 a felony that is one class higher than the underlying felony for which the person was convicted.

47 **(b)** This section shall apply to any person who commits a felony in whole or in
 48 substantial part because of one or more of the following actual or perceived characteristics of
 49 the victim:

- 50 **a.** Race.
 51 **b.** Color.

- 1 c. Religion.
2 d. Age.
3 e. Nationality, national origin, or country of origin.
4 f. Disability.
5 g. Military or veteran status.
6 h. Employment status or position.
7 i. Socioeconomic status.
8 j. Political affiliation.
9 k. Association with a person or group with one or more of these actual
10 characteristics.

11 (c) An indictment or information for the felony shall allege in that indictment or
12 information or in a separate indictment or information the facts set out in subsection (b) of this
13 section. The pleading is sufficient if it alleges that the defendant committed the felony in whole
14 or in substantial part because of one or more of the actual or perceived characteristics stated in
15 subsection (b) of this section. One pleading is sufficient for all felonies that are tried at a single
16 trial.

17 (d) The State shall prove the issue set out in subsection (b) of this section beyond a
18 reasonable doubt during the same trial in which the defendant is tried for the felony unless the
19 defendant pleads guilty or no contest to that issue. If the defendant pleads guilty or no contest
20 to the felony but pleads not guilty to the issue set out in subsection (b) of this section, then a
21 jury shall be impaneled to determine that issue."

22 **SECTION 4.** This act becomes effective December 1, 2017, and applies to
23 offenses committed on or after that date.