

**GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2005**

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HOUSE BILL 1322

Short Title: Safer Communities Act. (Public)

Sponsors: Representatives Insko; Alexander, Fisher, Harrison, Jeffus, Luebke, Wainwright, and Weiss.

Referred to: Rules, Calendar, and Operations of the House.

April 20, 2005

A BILL TO BE ENTITLED
AN ACT TO MAKE OUR COMMUNITIES SAFER BY EXPANDING THE SCOPE
OF THE ETHNIC INTIMIDATION ACT AND INCREASING THE CRIMINAL
PENALTIES FOR COMMITTING AN ACT OF ETHNIC INTIMIDATION.

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

Whereas, crimes based on sexual orientation have tripled since the FBI began collecting statistics in 1991; and

Whereas, in 2003, the FBI reported 1,430 offenses committed against individuals based on sexual orientation. This is the second most frequent category of bias-related crimes, only behind racially motivated crimes; and

Whereas, 30 states and the District of Columbia have passed laws that address bias-motivated crimes based on sexual orientation; and

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

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

The General Assembly of North Carolina enacts:

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

"§ 14-3. Punishment of misdemeanors, infamous offenses, offenses committed in secrecy and malice, or with deceit and intent to defraud, or with ~~ethnic animosity~~ animosity based upon ethnicity, gender, age, sexual 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) If any felony is committed because of the victim's real or perceived race,
31 color, religion, nationality, gender, sexual orientation, disability, age, or country of
32 origin, the offender shall be punished at the sentencing level that is one level higher than
33 that authorized by the offender's prior record level.

34 (e) For purposes of this section, the term "sexual orientation" means actual or
35 perceived heterosexuality, homosexuality, bisexuality, or gender-related identity or
36 expression. The term does not include a physical or sexual attraction to a minor by an
37 adult."

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

39 **"§ 14-401.14. Ethnic intimidation; teaching any technique to be used for ethnic**
40 **intimidation.**

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

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

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

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

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

12 **SECTION 4.** This act becomes effective December 1, 2005, and applies to
13 offenses committed on or after that date.