

2017 -- H 5260

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STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2017

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A N A C T

RELATING TO CRIMINAL PROCEDURE - SENTENCE AND EXECUTION

Introduced By: Representatives Lima, Johnston, Hull, Keable, and Edwards

Date Introduced: January 27, 2017

Referred To: House Judiciary

It is enacted by the General Assembly as follows:

1           SECTION 1. Section 12-19-38 of the General Laws in Chapter 12-19 entitled "Sentence  
2 and Execution" is hereby amended to read as follows:

3           **12-19-38. Hate Crimes Sentencing Act.**

4           (a) If any person has been convicted of a crime charged by complaint, information, or  
5 indictment in which he or she intentionally selected the person against whom the offense is  
6 committed or selected the property that is damaged or otherwise affected by the offense because  
7 of the actor's hatred or animus toward the actual or perceived disability, religion, color, race,  
8 national origin or ancestry, sexual orientation, occupation or gender of that person or the owner or  
9 occupant of that property, or any police officer, firefighter or emergency medical technician as  
10 defined in §23-28.36-2, he or she shall be subject to the penalties provided in this section.

11           (b) Whenever it appears that a person may be subject to the Hate Crime Sentencing Act,  
12 the prosecuting agency, in no case later than the pretrial conference, shall file with the court a  
13 notice specifying that the defendant, upon conviction, is subject to the imposition of sentencing in  
14 accordance with this section.

15           (c) For misdemeanor offenses, upon any plea of guilty or nolo contendere or verdict or  
16 finding of guilty of the defendant, the district court shall conduct a sentencing hearing. At the  
17 hearing, the court shall permit the prosecuting agency and the defense to present additional  
18 evidence relevant to the determination of whether the defendant intentionally selected the person  
19 against whom the offense is committed, or selected the property that is damaged, or otherwise

1 affected by the offense because of his or her hatred or animus toward the actual or perceived race,  
2 religion, color, disability, national origin or ethnicity, gender, [occupation](#) or sexual orientation of  
3 that person or the owner or occupant of that property. If the finder of fact at the hearing, or in the  
4 case of a plea of guilty or nolo contendere, the district court at sentencing, determines beyond a  
5 reasonable doubt that the defendant's actions were so motivated, he or she shall be sentenced to  
6 not less than thirty (30) days mandatory imprisonment, nor more than one year imprisonment for  
7 that crime: and for this penalty, he or she shall not be afforded the provisions of filing, suspension  
8 of sentence, or probation.

9 (d) For felony offenses and for misdemeanor offenses in which the defendant claims a  
10 jury trial either in the first instance or by appeal, upon any plea of guilt or nolo contendere or  
11 verdict or finding of guilt of the defendant, the court shall conduct a sentencing hearing. At the  
12 hearing, the court shall permit the prosecuting agency and the defense to present additional  
13 evidence to the jury relevant to the determination of whether the defendant intentionally selected  
14 the person against whom the offense is committed, or selected the property that is damaged, or  
15 otherwise affected by the offense because of his or her hatred or animus toward the actual or  
16 perceived race, religion, color, disability, national origin or ethnicity, gender, [occupation](#) or  
17 sexual orientation of that person or the owner or occupant of that property. If the jury at the  
18 hearing, or in the case of a plea of guilty or nolo contendere, the court at sentencing, determines  
19 beyond a reasonable doubt that the defendant's actions were so motivated, he or she shall be  
20 sentenced for a misdemeanor in accordance with subsection (c) of this section and for a felony by  
21 the court to an additional, consecutive term of imprisonment for not less than one year nor more  
22 than five (5) years, but in no case, more than double the original penalty for the crime.

23 SECTION 2. This act shall take effect upon passage.

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EXPLANATION  
BY THE LEGISLATIVE COUNCIL  
OF

A N A C T

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- 1 This act would add police, firefighters and emergency medical technicians to the class of
- 2 protected people included in the hate crimes sentencing act.
- 3 This act would take effect upon passage.

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