

STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2020

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A N A C T

RELATING TO CRIMINAL PROCEDURE -- SENTENCE AND EXECUTION -- HATE  
CRIMES SENTENCING ACT

Introduced By: Senators Lynch Prata, and Goodwin

Date Introduced: February 25, 2020

Referred To: Senate Judiciary

(Attorney General)

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 in whole  
7 or in part because of ~~the actor's hatred or animus toward~~ the actual or perceived disability, religion,  
8 color, race, national origin, ~~or~~ ancestry, sexual orientation, ~~or~~ gender or gender identity or  
9 expression of ~~that any~~ person ~~or the owner or occupant of that property~~ or group of persons, he or  
10 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 notice  
13 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

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

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

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

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EXPLANATION  
BY THE LEGISLATIVE COUNCIL  
OF

A N A C T

RELATING TO CRIMINAL PROCEDURE -- SENTENCE AND EXECUTION -- HATE  
CRIMES SENTENCING ACT

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1           This act would amend the definition of hate crime in various portions of the criminal law  
2   and provides that perpetrators may be prosecuted for hate crimes when they are motivated in part  
3   by perceptions or beliefs regarding those in protected groups, and protects those who are targeted  
4   due to their association with those in protected groups.

5           This act would take effect upon passage.

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