

**GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2021**

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SENATE BILL 439

Short Title: Hate Crimes Prevention Act. (Public)

Sponsors: Senators Chaudhuri, Foushee, and Mohammed (Primary Sponsors).

Referred to: Rules and Operations of the Senate

April 1, 2021

A BILL TO BE ENTITLED
AN ACT TO INCREASE THE SCOPE AND PUNISHMENT OF HATE CRIMES; TO
REQUIRE THE STATE BUREAU OF INVESTIGATION TO CREATE AND MAINTAIN
A HATE CRIMES STATISTICS DATABASE; TO REQUIRE THE NORTH CAROLINA
JUSTICE ACADEMY TO DEVELOP AND PROVIDE LAW ENFORCEMENT
OFFICERS WITH TRAINING ON IDENTIFYING, RESPONDING TO, AND
REPORTING HATE CRIMES; AND TO REQUIRE THE CONFERENCE OF DISTRICT
ATTORNEYS OF NORTH CAROLINA TO DEVELOP AND PROVIDE TRAINING TO
PROSECUTORS ON HOW TO PROSECUTE HATE CRIMES.

The General Assembly of North Carolina enacts:

PART I. TITLE OF ACT

SECTION 1. This act shall be known as "The Hate Crimes Prevention Act."

PART II. INCREASE SCOPE AND PUNISHMENT OF HATE CRIMES

SECTION 2.(a) 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 as a hate crime.

...

(c) If any Class 2 or Class 3 misdemeanor is ~~committed~~ committed, in whole or in part, because of the ~~victim's actual or perceived race, ethnicity, color, religion, nationality, or country of origin,~~ the victim or a person or group associated with the victim, the offender shall be guilty of a Class 1 misdemeanor. If any Class A1 or Class 1 misdemeanor offense is committed because of the ~~victim's actual or perceived race, ethnicity, color, religion, nationality, or country of origin,~~ the victim or a person or group associated with the victim, the offender shall be guilty of a Class H felony.

(d) In addition to any other remedies at law or in equity, a person who is injured or whose property is damaged as a result of conduct described under subsection (c) of this section, or an immediate family member of that person, may bring a civil action in any court of competent jurisdiction to obtain appropriate relief, including actual damages, punitive damages, any reasonable attorneys' fees, and any other litigation costs reasonably incurred. In an action brought pursuant to this subsection, the burden of proof shall be the same as in other civil actions for similar relief. For purposes of this subsection, the term (i) "actual damages" includes damages



for emotional distress and (ii) "immediate family member" means a child, sibling, parent, grandparent, or legal guardian of the victim.

(e) In addition to any other remedies at law or in equity, a person who has been convicted of or who has pleaded guilty or no contest to having engaged in conduct in violation of subsection (c) of this section may be ordered to participate in a restorative justice session with the victim of the offense if the victim requests a restorative justice session. If restorative justice under this subsection is ordered, the court shall select a member of a local Human Relations Commission, an attorney, a mediator, or an alternative dispute resolution professional, who has training in racial equity education, to conduct the restorative justice session. All costs of a restorative justice session ordered under this subsection shall be paid by the defendant."

SECTION 2.(b) G.S. 14-401.14 reads as rewritten:

"§ 14-401.14. ~~Ethnic intimidation; teaching any technique to be used for ethnic intimidation.~~Intimidation by hate crime; teaching any technique to be used in the commission of a hate crime.

(a) If a person shall, because of the actual or perceived race, ethnicity, color, religion, nationality, or country of origin, origin, gender, gender identity, gender expression, disability, or sexual orientation of another person or a person or group associated with that person, assault another that person, or damage or deface the property of another that person, or threaten to do any such act, he the person shall be guilty of a Class 1 misdemeanor.

...

(c) In addition to any other remedies at law or in equity, a person who is injured or whose property is damaged as a result of conduct described under subsection (a) of this section, or an immediate family member of that person, may bring a civil action in any court of competent jurisdiction to obtain appropriate relief, including actual damages, punitive damages, any reasonable attorneys' fees, and any other litigation costs reasonably incurred. In an action brought pursuant to this subsection, the burden of proof shall be the same as in other civil actions for similar relief. For purposes of this subsection, the term (i) "actual damages" includes damages for emotional distress and (ii) "immediate family member" means a child, sibling, parent, grandparent, or legal guardian of the victim.

(d) In addition to any other remedies at law or in equity, a person who has been convicted of or who has pleaded guilty or no contest to having engaged in conduct in violation of subsection (a) of this section may be ordered to participate in a restorative justice session with the victim of the offense if the victim requests a restorative justice session. If restorative justice under this subsection is ordered, the court shall select a member of a local Human Relations Commission, an attorney, a mediator, or an alternative dispute resolution professional, who has training in racial equity education, to conduct the restorative justice session. All costs of a restorative justice session ordered under this subsection shall be paid by the defendant."

SECTION 2.(c) G.S. 15A-1340.16(d)(17) reads as rewritten:

"(17) The offense for which the defendant stands convicted was committed ~~against a victim~~ because of the ~~victim's~~ actual or perceived race, ethnicity, color, religion, nationality, or country of origin, origin, gender, gender identity, gender expression, disability, or sexual orientation of the victim or a person or group associated with the victim."

SECTION 2.(d) Article 8 of Chapter 14 of the General Statutes is amended by adding a new section to read:

"§ 14-34.11. Felonious assault as a hate crime.

(a) The following definitions apply in this section:

(1) Gender identity. – Actual or perceived gender-related characteristics.

(2) Serious bodily injury. – Bodily injury that creates a substantial risk of death or that causes serious permanent disfigurement, coma, a permanent or protracted condition that causes extreme pain, or permanent or protracted loss

or impairment of the function of any bodily member or organ or that results in prolonged hospitalization.

(b) Anyone who, in whole or in part, because of the actual or perceived race, ethnicity, color, religion, nationality, country of origin, gender, gender identity, gender expression, disability, or sexual orientation of another person or a person or group associated with that person, commits an assault and inflicts serious bodily injury or attempts to commit an assault and inflicts serious bodily injury is guilty of committing the offense of felonious assault as a hate crime.

(c) Except as provided otherwise by this section, an offense committed under this section is a Class F felony.

(d) An offense committed under this section is a Class E felony if either of the following applies:

(1) Death results from the offense.

(2) The offense includes a violation or attempted violation of any of the following:

a. G.S. 14-39 (kidnapping).

b. G.S. 14-27.21 (first-degree forcible rape).

c. G.S. 14-27.22 (second-degree forcible rape).

d. G.S. 14-27.26 (first-degree forcible sexual offense).

e. G.S. 14-27.27 (second-degree forcible sexual offense).

(e) In addition to any other remedies at law or in equity, a person who is injured or whose property is damaged as a result of conduct described under subsection (b) of this section, or an immediate family member of that person, may bring a civil action in any court of competent jurisdiction to obtain appropriate relief, including actual damages, punitive damages, any reasonable attorneys' fees, and any other litigation costs reasonably incurred. In an action brought pursuant to this subsection, the burden of proof shall be the same as in other civil actions for similar relief. For purposes of this subsection, the term (i) "actual damages" includes damages for emotional distress and (ii) "immediate family member" means a child, sibling, parent, grandparent, or legal guardian of the victim.

(f) In addition to any other remedies at law or in equity, a person who has been convicted of or who has pleaded guilty or no contest to having engaged in conduct in violation of subsection (b) of this section may be ordered to participate in a restorative justice session with the victim of the offense if the victim requests a restorative justice session. If restorative justice under this subsection is ordered, the court shall select a member of a local Human Relations Commission, an attorney, a mediator, or an alternative dispute resolution professional, who has training in racial equity education, to conduct the restorative justice session. All costs of a restorative justice session ordered under this subsection shall be paid by the defendant."

SECTION 2.(e) This section becomes effective December 1, 2021, and applies to offenses committed on or after that date.

PART III. CREATE HATE CRIMES STATISTICS DATABASE

SECTION 3.(a) Article 13 of Chapter 143B of the General Statutes is amended by adding a new section to read:

"§ 143B-907. Hate crime statistics.

(a) Establishment. – The State Bureau of Investigation shall collect, analyze, and disseminate information regarding the commission of offenses punishable under G.S. 14-3(c), 14-401.14, or 14-34.11. The information collected, analyzed, and disseminated by the State Bureau of Investigation shall include all of the following:

(1) The total number of offenses committed for each type.

(2) Personal protected characteristics of the person who committed the offense and the victim from each offense.

(3) The disposition of each offense.

(b) Report by Law Enforcement Agencies. – By no later than the fifteenth day of each month, all State and local law enforcement agencies shall report information to the State Bureau of Investigation on offenses committed in the law enforcement agency's jurisdiction that the law enforcement agency determines to meet the criteria set forth in subsection (a) of this section. A report shall include (i) any information about the offenses required by the State Bureau of Investigation and (ii) only the offenses committed during the month prior to the date the report is submitted. The State Bureau of Investigation shall set the format in which reports are to be submitted under this subsection.

(c) Report by the State Bureau of Investigation. – By January 15 of each year, the State Bureau of Investigation shall submit to the General Assembly a report on the information the State Bureau of Investigation collected and analyzed under subsection (a) of this section during the calendar year prior to the date the report is submitted. Additionally, the State Bureau of Investigation shall publish a copy of the report required under this subsection on its website.

(d) Requests for Information. – Upon request of a local law enforcement agency, a unit of local government, or a State agency, the State Bureau of Investigation shall share any information collected and analyzed under subsection (a) of this section with the requesting local law enforcement agency, unit of local government, or State agency."

SECTION 3.(b) The State Bureau of Investigation shall develop and implement guidelines for (i) the information required to be submitted by local law enforcement agencies under G.S. 143B-907(b), as enacted by subsection (a) of this section, and (ii) the format in which the information is to be reported by local law enforcement agencies under G.S. 143B-907(b). The State Bureau of Investigation shall publish the guidelines required under this subsection on its website no later than 60 days prior to the date the first report is required to be submitted under G.S. 143B-907.

SECTION 3.(c) Notwithstanding any provision of G.S. 143B-907, as enacted by subsection (a) of this section, to the contrary, the first report required under G.S. 143B-907(b) shall be submitted by February 15, 2022, and the first report required under G.S. 143B-907(c) shall be submitted and published by January 15, 2023.

SECTION 3.(d) There is appropriated from the General Fund to the State Bureau of Investigation the sum of one million eight hundred ninety thousand dollars (\$1,890,000) in nonrecurring funds for the 2021-2022 fiscal year to cover any costs incurred in establishing the hate crimes statistics database required under G.S. 143B-907(a), as enacted by subsection (a) of this section.

SECTION 3.(e) There is appropriated from the General Fund to the State Bureau of Investigation the sum of five hundred thirty thousand dollars (\$530,000) in recurring funds for the 2021-2022 fiscal year to hire an additional employee to manage the hate crimes statistics database required under G.S. 143B-907(a), as enacted by subsection (a) of this section.

SECTION 3.(f) Subsection (a) of this section becomes effective January 1, 2022. The remainder of this section becomes effective July 1, 2021.

PART IV. REQUIRED LAW ENFORCEMENT TRAINING ON IDENTIFYING, RESPONDING TO, AND REPORTING HATE CRIMES

SECTION 4.(a) G.S. 17D-2(c) reads as rewritten:

"(c) Duties of the academy. The North Carolina Justice Academy shall have, but is not limited to, the following functions:

...

(5) It shall develop and provide training to law enforcement officers on how to identify, respond to, and report a hate crime. For purposes of this subdivision, the term "hate crime" means an offense punishable under G.S. 14-3(c), 14-401.14, or 14-34.11."

SECTION 4.(b) G.S. 17C-6(a) reads as rewritten:

"(a) In addition to powers conferred upon the Commission elsewhere in this Chapter, the Commission shall have the following powers, which shall be enforceable through its rules and regulations, certification procedures, or the provisions of G.S. 17C-10:

...

- (2) Establish minimum educational and training standards that must be met in order to qualify for entry level employment and retention as a criminal justice officer in temporary or probationary status or in a permanent position. The standards for entry level employment shall include all of the following:

...

- c. Education and training under G.S. 17D-2(c)(5) on how to identify, respond to, and report a hate crime.

...

- (14) Establish minimum standards for in-service training for criminal justice officers. In-service training standards shall include all of the following:

...

- c. Training under G.S. 17D-2(c)(5) on how to identify, respond to, and report a hate crime.

...

- (17) Establish minimum educational and training standards for employment and continuing education for criminal justice officers concerning:

...

- c. Pursuant to G.S. 17D-2(c)(5), identifying, responding to, and reporting a hate crime.

...."

SECTION 4.(c) G.S. 17E-4(a) reads as rewritten:

"(a) The Commission shall have the following powers, duties, and responsibilities, which are enforceable through its rules and regulations, certification procedures, or the provisions of G.S. 17E-8 and G.S. 17E-9:

...

- (2) Establish minimum educational and training standards that may be met in order to qualify for entry level employment as an officer in temporary or probationary status or in a permanent position. The standards for entry level employment of officers shall include all of the following:

...

- c. Training under G.S. 17D-2(c)(5) on how to identify, respond to, and report a hate crime.

...

- (11) Establish minimum standards for in-service training for justice officers. In-service training standards shall include all of the following:

...

- c. Training under G.S. 17D-2(c)(5) on how to identify, respond to, and report a hate crime.

...

- (13) Establish minimum educational and training standards for employment and continuing education for officers concerning:

...

- c. Pursuant to G.S. 17D-2(c)(5), identifying, responding to, and reporting a hate crime.

...."

SECTION 4.(d) This section becomes effective July 1, 2021.

**PART V. REQUIRED TRAINING FOR PROSECUTORS ON PROSECUTING HATE
CRIMES**

SECTION 5.(a) G.S. 7A-413 is amended by adding a new subsection to read:

"(c) The Conference shall develop and provide training to prosecutors on how to prosecute hate crimes. For purposes of this subsection, the term "hate crimes" means an offense punishable under G.S. 14-3(c), 14-401.14, or 14-34.11."

SECTION 5.(b) This section becomes effective July 1, 2021.

PART VI. EFFECTIVE DATE

SECTION 6. Except as otherwise provided, this act is effective when it becomes law.