

Stricken language would be deleted from and underlined language would be added to the law as it existed prior to this session of the General Assembly.

1 State of Arkansas *As Enrolled: S1/18/01 S1/30/01 S2/1/01*

2 83rd General Assembly

A Bill

3 Regular Session, 2001

SENATE BILL 35

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5 By: Senators B. Walker, Beebe, Wilkins, Riggs, P. Malone, Simes, K. Smith, Fitch

6 By: Representatives T. Steele, Broadway, C. Johnson, White, Jones, L. Thomas, J. Lewellen, Goss,

7 Clemons

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For An Act To Be Entitled

11 AN ACT TO PROVIDE ENHANCED PENALTIES FOR CRIMINAL
12 OFFENSES COMMITTED BECAUSE OF THE VICTIM'S RACE,
13 COLOR, RELIGION, ETHNICITY, ANCESTRY, NATIONAL ORIGIN,
14 SEXUAL ORIENTATION, GENDER, OR DISABILITY; AND FOR
15 OTHER PURPOSES.

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Subtitle

18 AN ACT TO PROVIDE ENHANCED PENALTIES FOR
19 CRIMINAL OFFENSES COMMITTED BECAUSE OF
20 THE VICTIM'S RACE, COLOR, RELIGION,
21 ETHNICITY, ANCESTRY, NATIONAL ORIGIN,
22 SEXUAL ORIENTATION, GENDER, OR
23 DISABILITY.

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26 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

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28 SECTION 1. For purposes of this act:

29 (1) "Because of" means that:

30 (A) The bias motivation was a cause in fact of the criminal
31 offense, regardless of whether other causes also existed; and

32 (B) When multiple concurrent motives existed, the bias motivation
33 was a substantial factor in the commission of the criminal offense;

34 (2)(A) "Disability" means a physical or mental impairment that
35 substantially limits a major life function.

36 (B) "Disability" does not mean:

- 1 (i) Compulsive gambling;
- 2 (ii) Kleptomania;
- 3 (iii) Pyromania;
- 4 (iv) Current use of illegal drugs or psychoactive substance
- 5 use disorders resulting from illegal use of drugs; or
- 6 (v) Alcoholism;

7 (3) "Sexual orientation" means heterosexuality, homosexuality, or
 8 bisexuality; and

9 (4) "Purposely selects the victim" does not mean, and may not be proved
 10 by evidence, that a defendant's mere abstract beliefs or expressions were
 11 hostile or contrary to the victim's traits enumerated in Section 2 herein, or
 12 that a defendant is or was associated with a group opposed to the victim's
 13 traits enumerated in Section 2 herein, unless such belief, expression, or
 14 association was part of the chain of events leading to the criminal offense.

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16 SECTION 2. A person shall be subject to enhanced criminal penalties if
 17 the person purposely selects the victim of a criminal offense because of the
 18 victim's actual or perceived:

- 19 (1) Race;
- 20 (2) Color;
- 21 (3) Religion;
- 22 (4) Ethnicity;
- 23 (5) Ancestry;
- 24 (6) National origin;
- 25 (7) Sexual orientation;
- 26 (8) Gender, except for criminal offenses in Chapters 14 and 26 of Title
 27 5 of the Arkansas Code; or
- 28 (9) Disability.

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30 SECTION 3. (a) If a person pleads guilty, nolo contendere, or is found
 31 guilty of any criminal offense, and the trier of fact determines beyond a
 32 reasonable doubt at the sentencing phase of the bifurcated trial that the
 33 person purposely selected the victim of the offense because of the victim's
 34 actual or perceived race, color, religion, ethnicity, ancestry, national
 35 origin, sexual orientation, gender, or disability, then the penalty range for
 36 the offense shall be increased.

