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SENATE BILL DRS35354-MLa-208A

Short Title: Hate Crimes Prevention Act. (Public)

Sponsors: Senators Chaudhuri and Foushee (Primary Sponsors).

Referred to:

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 because of the victim's race, ethnicity, color, religion, nationality, ~~or country of origin,~~ origin, gender, gender identity, gender expression, disability, or sexual orientation, 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 race, ethnicity, color, religion, nationality, ~~or country of origin,~~ origin, gender, gender identity, gender expression, disability, or sexual orientation, the offender shall be guilty of a Class H felony.

(d) In addition to any other remedies at law or in equity, a victim of an offense punished under subsection (c) of this section, or an immediate family member of the victim, may, in a civil action in any court of competent jurisdiction, obtain appropriate relief from the person who committed the offense, including actual damages, punitive damages, any reasonable attorneys' fees, and any other litigation costs reasonably incurred. 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.

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



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1 "**§ 14-401.14. ~~Ethnic intimidation; teaching any technique to be used for ethnic~~**
 2 **~~intimidation.~~Intimidation by hate crime; teaching any technique to be used in**
 3 **the commission of a hate crime.**

4 (a) If a person shall, because of race, ethnicity, color, religion, nationality, ~~or~~ country of
 5 ~~origin~~, origin, gender, gender identity, gender expression, disability, or sexual orientation, assault
 6 another person, or damage or deface the property of another person, or threaten to do any such
 7 act, ~~he~~the person shall be guilty of a Class 1 misdemeanor.

8 ...

9 (c) In addition to any other remedies at law or in equity, a victim of an offense committed
 10 under this section, or an immediate family member of the victim, may, in a civil action in any
 11 court of competent jurisdiction, obtain appropriate relief from the person who committed the
 12 offense, including actual damages, punitive damages, any reasonable attorneys' fees, and any
 13 other litigation costs reasonably incurred. For purposes of this subsection, the term (i) "actual
 14 damages" includes damages for emotional distress and (ii) "immediate family member" means a
 15 child, sibling, parent, grandparent, or legal guardian of the victim."

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

17 "(d) Aggravating Factors. – The following are aggravating factors:

18 ...

19 (17) The offense for which the defendant stands convicted was committed against
 20 a victim because of the victim's race, ethnicity, color, religion, nationality, ~~or~~
 21 ~~country of origin~~, origin, gender, gender identity, gender expression, disability,
 22 or sexual orientation."

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

25 "**§ 14-34.11. Felonious assault as a hate crime.**

26 (a) The following definitions apply in this section:

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

28 (2) Serious bodily injury. – Bodily injury that creates a substantial risk of death
 29 or that causes serious permanent disfigurement, coma, a permanent or
 30 protracted condition that causes extreme pain, or permanent or protracted loss
 31 or impairment of the function of any bodily member or organ or that results
 32 in prolonged hospitalization.

33 (b) Anyone who, because of the actual or perceived race, ethnicity, color, religion,
 34 nationality, country of origin, gender, gender identity, gender expression, disability, or sexual
 35 orientation of another person, assaults that person and inflicts serious bodily injury to the person
 36 or attempts to assault that person and inflict serious bodily injury to the person is guilty of
 37 committing the offense of felonious assault as a hate crime.

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

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

42 (1) Death results from the offense.

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

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

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

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

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

49 e. G.S. 14-27 (second degree forcible sexual offense).

50 (e) Evidence of expressions or associations of the accused may not be introduced as
 51 substantive evidence at trial unless the evidence specifically relates to the crime charged under

1 this section. Nothing in this section shall affect the rules of evidence governing the impeachment
2 of a witness.

3 (f) In addition to any other remedies at law or in equity, a victim of an offense committed
4 under this section, or an immediate family member of the victim, may, in a civil action in any
5 court of competent jurisdiction, obtain appropriate relief from the person who committed the
6 offense, including actual damages, punitive damages, any reasonable attorneys' fees, and any
7 other litigation costs reasonably incurred. For purposes of this subsection, the term (i) "actual
8 damages" includes damages for emotional distress and (ii) "immediate family member" means a
9 child, sibling, parent, grandparent, or legal guardian of the victim."

10 **SECTION 2.(e)** This section becomes effective December 1, 2018, and applies to
11 offenses committed on or after that date.

12 **PART III. CREATE HATE CRIMES STATISTICS DATABASE**

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

15 **"§ 143B-907. Hate crime statistics.**

16 (a) Establishment. – The State Bureau of Investigation shall collect, analyze, and
17 disseminate information regarding the commission of offenses punishable under G.S. 14-3(c),
18 14-401.14, or 14-34.11. The information collected, analyzed, and disseminated by the State
19 Bureau of Investigation shall include all of the following:

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

21 (2) Identifying characteristics of the person who committed the offense and the
22 victim from each offense.

23 (3) The disposition of each offense.

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

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

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

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

48 **SECTION 3.(c)** Notwithstanding any provision of G.S. 143B-907, as enacted by
49 subsection (a) of this section, to the contrary, the first report required under G.S. 143B-907(b)
50

1 shall be submitted by February 15, 2020, and the first report required under G.S. 143B-907(c)
2 shall be submitted and published by January 15, 2021.

3 **SECTION 3.(d)** There is appropriated from the General Fund to the State Bureau of
4 Investigation the sum of one million eight hundred ninety thousand dollars (\$1,890,000) in
5 nonrecurring funds for the 2019-2020 fiscal year to cover any costs incurred in establishing the
6 hate crime statistics database required under G.S. 143B-907(a), as enacted by subsection (a) of
7 this section.

8 **SECTION 3.(e)** There is appropriated from the General Fund to the State Bureau of
9 Investigation the sum of five hundred thirty thousand dollars (\$530,000) in recurring funds for
10 the 2019-2020 fiscal year to hire an additional employee to manage the hate crime statistics
11 database required under G.S. 143B-907(a), as enacted by subsection (a) of this section.

12 **SECTION 3.(f)** Subsection (a) of this section becomes effective January 1, 2020.
13 The remainder of this section becomes effective July 1, 2019.

14
15 **PART IV. REQUIRED LAW ENFORCEMENT TRAINING ON IDENTIFYING,
16 RESPONDING TO, AND REPORTING HATE CRIMES**

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

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

20 ...

21 (5) It shall develop and provide training to law enforcement officers on how to
22 identify, respond to, and report a hate crime. For purposes of this subdivision,
23 the term "hate crime" means an offense punishable under G.S. 14-3(c),
24 14-401.14, or 14-34.11."

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

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

29 ...

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

34 a. Education and training in response to, and investigation of, domestic
35 violence cases, as well as training in investigation for evidence-based
36 prosecutions.

37 b. Education and training on juvenile justice issues, including (i) the
38 handling and processing of juvenile matters for referrals, diversion,
39 arrests, and detention; (ii) best practices for handling incidents
40 involving juveniles; (iii) adolescent development and psychology; and
41 (iv) promoting relationship building with youth as a key to
42 delinquency prevention.

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

45 ...

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

48 a. Training in response to, and investigation of, domestic violence cases,
49 as well as training investigation for evidence-based prosecutions.

50 b. Training on juvenile justice issues, including (i) the handling and
51 processing of juvenile matters for referrals, diversion, arrests, and

1 detention; (ii) best practices for handling incidents involving juveniles;
2 (iii) adolescent development and psychology; and (iv) promoting
3 relationship building with youth as a key to delinquency prevention.

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

6 ...

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

9 a. Recognizing and appropriately interacting with persons who are deaf
10 or hard of hearing.

11 b. Drivers license and vehicle registration identifiers of persons who are
12 deaf or hard of hearing, as authorized by G.S. 20-7(q2), including that
13 those identifiers are optional.

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

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

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

20 ...

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

25 a. Training in response to, and investigation of, domestic violence cases,
26 as well as training in investigation for evidence-based prosecutions.
27 For purposes of the domestic violence training requirement, the term
28 "officers" shall include justice officers as defined in G.S. 17E-2(3)a.,
29 except that the term shall not include "special deputy sheriffs" as
30 defined in G.S. 17E-2(3)a.

31 b. Training on juvenile justice issues, including (i) the handling and
32 processing of juvenile matters for referrals, diversion, arrests, and
33 detention; (ii) best practices for handling incidents involving juveniles;
34 (iii) adolescent development and psychology; and (iv) promoting
35 relationship building with youth as a key to delinquency prevention.

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

38 ...

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

41 a. Training in response to, and investigation of, domestic violence cases,
42 as well as training in investigation for evidence-based prosecutions.
43 For purposes of the domestic violence training requirement, the term
44 "justice officer" shall include those defined in G.S. 17E-2(3)a., except
45 that the term shall not include "special deputy sheriffs" as defined in
46 G.S. 17E-2(3)a.

47 b. Training on juvenile justice issues, including (i) the handling and
48 processing of juvenile matters for referrals, diversion, arrests, and
49 detention; (ii) best practices for handling incidents involving juveniles;
50 (iii) adolescent development and psychology; and (iv) promoting
51 relationship building with youth as a key to delinquency prevention.

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:

a. Recognizing and appropriately interacting with persons who are deaf or hard of hearing.

b. Drivers license and vehicle registration identifiers of persons who are deaf or hard of hearing, as authorized by G.S. 20-7(q2), including that those identifiers are optional.

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

SECTION 4.(d) There is appropriated from the General Fund to the Department of Justice the sum of eighty-nine thousand five hundred forty-seven dollars (\$89,547) in recurring funds for the 2019-2020 fiscal year to hire an additional employee to provide the training required under G.S. 17D-2(c)(5), as enacted by subsection (a) of this section.

SECTION 4.(e) This section becomes effective July 1, 2019.

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) There is appropriated from the General Fund to the Conference of District Attorneys of North Carolina the sum of eighty-nine thousand five hundred forty-seven dollars (\$89,547) in recurring funds for the 2019-2020 fiscal year to hire an additional employee to provide the training required under G.S. 7A-413(c), as enacted by subsection (a) of this section.

SECTION 5.(c) This section becomes effective July 1, 2019.

PART VI. EFFECTIVE DATE

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