

GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2021

H.B. 354  
Mar 22, 2021  
HOUSE PRINCIPAL CLERK

H

D

HOUSE BILL DRH40237-MLa-76A

Short Title: Hate Crimes Prevention Act.

(Public)

Sponsors: Representative Majeed.

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.

(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 race, ethnicity, color, religion, nationality, ~~or~~ country of origin, origin, gender, gender identity, gender expression, disability, or sexual orientation, assault another person, or damage or deface the property of another 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 victim of an offense committed under 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.

(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 race, ethnicity, color, religion, nationality, ~~or~~ country of origin, origin, gender, gender identity, gender expression, disability, or sexual orientation."

**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, 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, assaults that person and inflicts serious bodily injury to the person or attempts to assault that person and inflict serious bodily injury to the person is guilty of committing the offense of felonious assault as a hate crime.

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

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

5           (1) Death results from the offense.

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

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

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

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

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

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

13       (e) Evidence of expressions or associations of the accused may not be introduced as  
14 substantive evidence at trial unless the evidence specifically relates to the crime charged under  
15 this section. Nothing in this section shall affect the rules of evidence governing the impeachment  
16 of a witness.

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

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

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

### 34 35 **PART III. CREATE HATE CRIMES STATISTICS DATABASE**

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

#### 38 **"§ 143B-907. Hate crime statistics.**

39       (a) Establishment. – The State Bureau of Investigation shall collect, analyze, and  
40 disseminate information regarding the commission of offenses punishable under G.S. 14-3(c),  
41 14-401.14, or 14-34.11. The information collected, analyzed, and disseminated by the State  
42 Bureau of Investigation shall include all of the following:

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

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

46           (3) The disposition of each offense.

47       (b) Report by Law Enforcement Agencies. – By no later than the fifteenth day of each  
48 month, all State and local law enforcement agencies shall report information to the State Bureau  
49 of Investigation on offenses committed in the law enforcement agency's jurisdiction that the law  
50 enforcement agency determines to meet the criteria set forth in subsection (a) of this section. A  
51 report shall include (i) any information about the offenses required by the State Bureau of

1 Investigation and (ii) only the offenses committed during the month prior to the date the report  
2 is submitted. The State Bureau of Investigation shall set the format in which reports are to be  
3 submitted under this subsection.

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

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

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

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

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

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

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

#### 35 36 **PART IV. REQUIRED LAW ENFORCEMENT TRAINING ON IDENTIFYING,** 37 **RESPONDING TO, AND REPORTING HATE CRIMES**

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

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

41 ...

42 (5) It shall develop and provide training to law enforcement officers on how to  
43 identify, respond to, and report a hate crime. For purposes of this subdivision,  
44 the term "hate crime" means an offense punishable under G.S. 14-3(c),  
45 14-401.14, or 14-34.11."

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

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

50 ...

(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:

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

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

5

6 **PART VI. EFFECTIVE DATE**

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