**A** **BILL**

TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ADDING SECTION 16‑3‑1900 SO AS TO ESTABLISH PENALTIES FOR NONCAPITAL CRIMINAL OFFENSES AGAINST A PERSON THAT WERE MOTIVATED BY HATE, WHICH PERTAINS TO SUCH CRIMES BEING COMMITTED WITH THE INTENT TO COMMIT THE CRIME BECAUSE OF THE ACTUAL OR PERCEIVED RACE, RELIGION, COLOR, NATIONAL ORIGIN, ANCESTRY, AGE, DISABILITY, GENDER, SEXUAL ORIENTATION OR GENDER IDENTITY OF A VICTIM, AND TO DEFINE “AGE”, “BASE OFFENSE”, “GENDER IDENTITY”, “DISABILITY”, “MOTIVATED BY HATE”, AND “SEXUAL ORIENTATION”.

Be it enacted by the General Assembly of the State of South Carolina:

SECTION 1. Chapter 3, Title 16 of the 1976 Code is amended by adding:

“Article 18

Hate Crimes

Section 16‑3‑1900. (A) A person who is convicted of an noncapital offense contained in this chapter, who was motivated by hate in the commission of the offense, is guilty of a felony offense separate from the base offense and, upon conviction, must be punished in accordance with the following:

(1) if the base offense is a misdemeanor, the person must be fined not less than two thousand dollars or more than ten thousand dollars or imprisoned not less than ninety days and not more than six months, or both;

(2) if the base offense is a felony for which the penalty could be imprisonment for not more than ten years, the person must be imprisoned not less than six months and not more than one year;

(3) if the base offense is a felony for which the penalty could be imprisonment for not more than thirty years, excluding those offenses for which imprisonment could be for not more than ten years, the person must be imprisoned not less than one year and not more than two years;

(4) for conviction of a second offense of the crime established pursuant to this section, regardless of whether the base offense in the first or second conviction was a misdemeanor or a felony, the person must be imprisoned not less than two years and not more than five years.

(B) As used in this section:

(1) ‘Age’ means sixty years of age or older.

(2) ‘Base offense’ means the offense contained in this chapter for which the person was convicted and the commission of which was motivated by hate.

(3) ‘Disability’ means that the person has a physical or mental impairment that substantially limits one or more of the major life activities of the person including, but not limited to, caring for himself, performing manual tasks, walking, seeing, hearing, speaking, breathing, learning, and working.

(4) ‘Gender identity’ means a person’s self‑perception, or perception of that person by another, of the person’s identity as a male or female based upon the person’s appearance, behavior, or physical characteristics that are in accord or opposed to the person’s physical anatomy, chromosomal sex, or sex at birth.

(5) ‘Motivated by hate’ means the commission of a crime contained in this chapter with the intent to commit the crime because of the actual or perceived race, religion, color, national origin, ancestry, age, disability, gender, sexual orientation, or gender identity of the victim, whether or not the offender’s belief or perception was correct.

(6) ‘Sexual orientation’ means heterosexuality, homosexuality, or bisexuality, whether actual or perceived.”

SECTION 2. If any section, subsection, paragraph, subparagraph, sentence, clause, phrase, or word of this act is for any reason held to be unconstitutional or invalid, such holding shall not affect the constitutionality or validity of the remaining portions of this act, the General Assembly hereby declaring that it would have passed this act, and each and every section, subsection, paragraph, subparagraph, sentence, clause, phrase, and word thereof, irrespective of the fact that any one or more other sections, subsections, paragraphs, subparagraphs, sentences, clauses, phrases, or words hereof may be declared to be unconstitutional, invalid, or otherwise ineffective.

SECTION 3. The repeal or amendment by this act of any law, whether temporary or permanent or civil or criminal, does not affect pending actions, rights, duties, or liabilities founded thereon, or alter, discharge, release or extinguish any penalty, forfeiture, or liability incurred under the repealed or amended law, unless the repealed or amended provision shall so expressly provide. After the effective date of this act, all laws repealed or amended by this act must be taken and treated as remaining in full force and effect for the purpose of sustaining any pending or vested right, civil action, special proceeding, criminal prosecution, or appeal existing as of the effective date of this act, and for the enforcement of rights, duties, penalties, forfeitures, and liabilities as they stood under the repealed or amended laws.

SECTION 4. This act takes effect upon approval by the Governor.

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