

BILL NO. 30-0280

Thirtieth Legislature of the Virgin Islands

November 6, 2013

An Act amending Title 14 Virgin Islands Code, adding chapter 123 to enhance the penalty for any existing crime of violence, when the crime is motivated by the victim's race, color, religion, national origin, sex, ancestry, age, disability, sexual orientation or gender identity

PROPOSED BY: Senator Craig W. Barshinger
Co Sponsor: Clarence Payne III

Be it enacted by the Legislature of the Virgin Islands:

SECTION 1. This Act May be cited as “The Hate-Motivated Crimes Act of 2013”.

SECTION 2. Title 14 Virgin Islands Code, is amended by adding chapter 123 to read as follows:

“Chapter 123

§ 3046. This chapter may be cited as “The Hate-motivated Crimes Act”.

§ 3047. **DEFINITIONS**

As used in this chapter

(a) “Enhanced penalty” means a statutory enhancement where the sentence is increased significantly and could double or more the sentence for the underlying crime for an offender who

1 intentionally selects a victim based upon at least in part, the victim's race, color, religion, national
2 origin, sex, ancestry, age, disability, sexual orientation or gender identity and where the offender is
3 subjected to more severe penalties than would have been imposed in the absence of hate-motivated
4 intent.

5 (b) "Hate-motivated crime" means the commission, caused to be committed or
6 attempted to be committed of any crime where conduct is maliciously motivated by prejudice of
7 the victim's actual or perceived race, color, religion, national origin, sex, ancestry, age, disability,
8 sexual orientation or gender identity.

9 (c) "Underlying crime" means any crime defined in chapters 11, 13, 21, 30, 31, 35, 43,
10 45, 49, 53, 55, 63, 67, 79, 85, 87, 91, 93, 95, 101, 104, and 108 of this title, when the crime is
11 committed, caused to be committed or attempted to be committed due to hate-motivated intent.

12 **§ 3048.** A person who willfully commits, causes to be committed or attempts to commit any
13 crime and whose conduct is maliciously motivated by prejudice of the victim's actual or perceived
14 race, color, religion, national origin, sex, ancestry, age, disability, sexual orientation or gender
15 identity is subject to the following enhanced penalties:

16 (a) If the maximum penalty for the underlying crime is one year or less, the penalty for
17 violation of this section is imprisonment for not more than two years or a fine of not more than
18 \$20,000.

19 (b) If the maximum penalty for the underlying crime is more than one year but less than
20 five years, the penalty for violation of this section is imprisonment for not more than five years or a
21 fine of not more than \$50,000.

22 (c) If the maximum penalty for the underlying crime is five years or more, the penalty for
23 the underlying crime applies.

24 **§ 3049.** In a prosecution for an offense under this section, evidence of expression or
25 associations of the defendant may not be introduced as substantive evidence at trial, unless the

1 evidence specifically relates to that offense. However, nothing in this section affects the rules of
2 evidence governing impeachment of a witness.

3 § 3050. If any provision of this chapter or the application of such provision to any person or
4 circumstance is held to be unconstitutional, the remainder of this chapter and the application of the
5 provisions of this chapter to any person or circumstance shall not be affected thereby.

6 § 3051. Nothing in this chapter may be construed to prohibit any expressive conduct
7 protected from legal prohibition by or any activities protected by the Free Speech or Free Exercise
8 Clauses of the First Amendment to the United States Constitution.

9 **BILL SUMMARY**

10 This Bill adds a new chapter to Title 14, Virgin Islands Code, to create the “Hate–motivated
11 Crimes Act of 2013; defines certain terms applicable to this Bill; enhances the penalty for any
12 underlying crime committed, caused to be committed or attempted to be committed by a person
13 whose conduct was maliciously motivated by the victim’s race, color, religion, national origin, sex,
14 ancestry, age, disability, sexual orientation or gender identity; defines applicable rules of evidence;
15 contains a savings clause such that should a higher court rule part(s) of the law unconstitutional, the
16 remaining portions of the law will survive and be applicable to any person; and contains a clause
17 protecting Free Speech under the First Amendment. Free speech protection means that persons are
18 free to express their ideas, no matter how repugnant, but when they engage in unlawful conduct
19 based on these beliefs, they surrender their First Amendment rights.
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26 **BR13-0178/March 14, 2013/AA/Reviewed by MMH**
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