

Spring 1999

## 1998 Survey of Rhode Island Law: Legislation: Criminal Law: An Act Relating to Sentence and Execution - Hate Crimes Sentencing

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### Recommended Citation

Pacheco, Helena R. (1999) "1998 Survey of Rhode Island Law: Legislation: Criminal Law: An Act Relating to Sentence and Execution - Hate Crimes Sentencing," *Roger Williams University Law Review*: Vol. 4: Iss. 2, Article 25.  
Available at: [http://docs.rwu.edu/rwu\\_LR/vol4/iss2/25](http://docs.rwu.edu/rwu_LR/vol4/iss2/25)

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**Sentence and Execution.** *An Act Relating to Sentence and Execution - Hate Crimes Sentencing.* Provides sentencing guidelines for the courts to apply against any defendant convicted of committing a hate crime. The act elaborates on what constitutes a hate crime and provides a range of minimum and maximum sentences for those convicted of committing hate crimes constituting either misdemeanors or felonies. Effective, July 2, 1998. 1998 R.I. Pub. Laws ch. 83.

This legislation (the Act) amends chapter 12-19 of the Rhode Island General Laws. The Act's purpose is to allow individuals, regardless of "actual or perceived disability, religion, color, race, national origin or ancestry, sexual orientation, or gender," to be protected from the hatred and animosity of others.<sup>1</sup> Because of the seriousness of crimes where victims are targeted for who they are by individuals motivated solely by hatred, the Act provides for mandatory imprisonment of any individual convicted of committing such a crime.<sup>2</sup> The Act increases the penalties imposed by prior laws, mandating prison time and eliminating the possibility that an individual convicted of committing such a crime need only pay a fine.<sup>3</sup>

The Act defines "hate crimes" as being those committed not only against specific individuals, but also against property of such individuals.<sup>4</sup> A hate crime is any crime in which the individual committing the act has purposefully targeted his or her victim "because of the actor's hatred or animus toward the actual or perceived disability, religion, color, race, national origin or ancestry, sexual orientation, or gender of that person or the owner or occupant of that property."<sup>5</sup> Any individual who so chooses his or her victim is covered by the Act.<sup>6</sup>

The Act imposes particular responsibility on prosecutors whenever it appears that an individual may have committed a hate crime.<sup>7</sup> A prosecutor is required to notify the court (no later

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1. R.I. Gen. Laws § 12-19-38(a) (1956) (1994 Reenactment & Supp. 1998).

2. *See id.* § 12-19-38(c)-(d).

3. *See* 1998 R.I. Pub. Laws ch. 83, §§ 2-4.

4. *See* R.I. Gen. Laws § 12-19-38(a) (1956) (1994 Reenactment & Supp. 1998).

5. *Id.*

6. *See id.*

7. *See id.* § 12-19-38(b).

than at pretrial conference) that a defendant may be subject to the sentencing requirements of the Act.<sup>8</sup>

In misdemeanor cases, where a defendant pleads guilty or no lo contendere, is convicted by a judge or a jury, or has his or her conviction upheld by an appellate court, the court is required to hold a sentencing hearing.<sup>9</sup> The court must allow both sides (prosecution and defense) to present any evidence with significance on the determination of whether the crime committed was motivated by hate.<sup>10</sup> If the court finds beyond a reasonable doubt that the crime was indeed a hate crime, the defendant will be sentenced to a minimum of thirty days and a maximum of one year in prison.<sup>11</sup> In such a case, the defendant will not be entitled to a suspended sentence or probation.<sup>12</sup>

In felony cases, where a defendant pleads guilty or no lo contendere or has been found guilty by either a judge or a jury, the court is similarly required to hold a sentencing hearing where both sides are allowed to present evidence with any significance on the determination of whether a hate crime has been committed.<sup>13</sup> If either a jury or a court determines beyond a reasonable doubt that the crime was indeed a hate crime, the defendant will be sentenced to a minimum of one year and a maximum of five years in prison.<sup>14</sup>

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8. *See id.*

9. *See id.* § 12-19-38(c)-(d).

10. *See id.*

11. *See id.*

12. *See id.* § 12-19-38(c).

13. *See id.* § 12-19-38(d).

14. *See id.*