

FIFTY-SECOND LEGISLATURE
FIRST SESSION, 2015

SB 119/a

February 6, 2015

Mr. President:

Your **PUBLIC AFFAIRS COMMITTEE**, to whom has been referred

SENATE BILL 119

has had it under consideration and reports same with recommendation that it **DO PASS**, amended as follows:

1. On page 2, after line 25, insert the following new section:

"SECTION 3. Section 31-18B-3 NMSA 1978 (being Laws 2003, Chapter 384, Section 3, as amended) is amended to read:

"31-18B-3. HATE CRIMES--NONCAPITAL FELONIES, MISDEMEANORS OR PETTY MISDEMEANORS [~~COMMITTED BECAUSE OF THE VICTIM'S ACTUAL OR PERCEIVED RACE, RELIGION, COLOR, NATIONAL ORIGIN, ANCESTRY, AGE, DISABILITY, GENDER, SEXUAL ORIENTATION OR GENDER IDENTITY~~]-
ALTERATION OF BASIC SENTENCE.--

A. When a separate finding of fact by the court or jury shows beyond a reasonable doubt that an offender committed a noncapital felony motivated by hate, the basic sentence of imprisonment prescribed for the offense in Section 31-18-15 NMSA 1978 may be increased by one year. An increase in the basic sentence of imprisonment pursuant to the provisions of this subsection shall be in addition to an increase in a basic sentence prescribed for the offense in Section 31-18-17 NMSA 1978. A sentence imposed pursuant to the provisions of this subsection may include an alternative sentence that requires community service, treatment, education or any combination thereof. The court may suspend or defer any or all of the sentence or grant a conditional discharge, unless otherwise provided by law.

B. If a finding was entered in a previous case that the offender was convicted for committing a crime that was motivated by hate, and if a separate finding of fact by the court or jury shows beyond a reasonable doubt that in the instant case the offender

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committed a noncapital felony that was motivated by hate, the basic sentence of imprisonment prescribed for the offense in Section 31-18-15 NMSA 1978 may be increased by two years. An increase in the basic sentence of imprisonment pursuant to the provisions of this subsection shall be in addition to an increase in a basic sentence prescribed for the offense in Section 31-18-17 NMSA 1978. A sentence imposed pursuant to the provisions of this subsection may include an alternative sentence that requires community service, treatment, education or any combination thereof. The court may suspend or defer any or all of the sentence, or grant a conditional discharge unless otherwise provided by law.

C. If the case is tried before a jury and if a prima facie case has been established showing that in the commission of the offense the offender was motivated by hate, the court shall submit the issue to the jury by special interrogatory. If the case is tried by the court and if a prima facie case has been established showing that in the commission of the offense the offender was motivated by hate, the court shall decide the issue and shall make a separate finding of fact regarding the issue. If the court or jury determines that the offender is guilty of the crime and finds beyond a reasonable doubt that the offender was motivated by hate, the court shall include that determination in the judgment and sentence.

D. When a petty misdemeanor or a misdemeanor is motivated by hate, the basic sentence of imprisonment prescribed for the offense in Section 31-19-1 NMSA 1978 may include an alternative sentence that requires community service, treatment, education or any combination thereof. The court may suspend or defer any or all of the sentence or grant a conditional discharge, unless otherwise provided by law."".

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2. Renumber the succeeding section accordingly.,
and thence referred to the **JUDICIARY COMMITTEE.**

Respectfully submitted,

Gerald Ortiz y Pino, Chairman

Adopted _____ Not Adopted _____
(Chief Clerk) (Chief Clerk)

Date _____

The roll call vote was 6 For 0 Against

Yes: 6

No: 0

Excused: Candelaria, Kernan

Absent: None

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