



Legislation Details (With Text)

File #: 231032 **Version:** 2 **Name:**

Type: Ordinance **Status:** Passed

File created: 12/6/2023 **In control:** Council

On agenda: 12/21/2023 **Final action:** 1/11/2024

Title: Sponsors: Councilmembers Andrea Bough, Crispin Rea, Johnathan Duncan, and Eric Bunch

Amending Chapter 1, Code of Ordinances, by repealing Section 1-17 and enacting in lieu thereof a section of like number and subject matter to establish a sentence enhancement for certain municipal offenses.

Sponsors: Andrea Bough, Crispin Rea, Johnathan Duncan, Eric Bunch, Lindsay French

Indexes:

Code sections:

Attachments: 1. 231032 docket memo, 2. Public Testimony - KCLGBTQ Commission, 3. Public Testimony - Zoe Dunning, 4. Authenticated Ordinance 231032 Amended, 5. Public Testimony - AKitchen, 6. Public Testimony - JMcQueeny, 7. Public Testimony - Molly Uhlenhake

| Date | Ver. | Action By | Action | Result |
|------------|------|------------------------------------|---------------------------------|--------|
| 1/11/2024 | 1 | Council | Move to Amend | Pass |
| 1/11/2024 | 1 | Council | Passed as Amended | Pass |
| 12/14/2023 | 1 | Council | Assigned to Third Read Calendar | |
| 12/12/2023 | 1 | Special Committee for Legal Review | Do Pass | |
| 12/7/2023 | 1 | Council | referred | |

ORDINANCE NO. 231032, AS AMENDED

Sponsors: Councilmembers Andrea Bough, Crispin Rea, Johnathan Duncan, and Eric Bunch

Amending Chapter 1, Code of Ordinances, by repealing Section 1-17 and enacting in lieu thereof a section of like number and subject matter to establish a sentence enhancement for certain municipal offenses.

WHEREAS, the Kansas City Police Department’s Bias Incident Report reported 24 bias-motivated offenses in 2022 and 23 bias-motivated offenses so far this year; and

WHEREAS, the Council of Kansas City believes it is the right of every person, regardless of race, color, religion, national origin, sex, sexual orientation, gender identity or disability to be secure and protected from fear, intimidation, harassment, and physical harm caused by the activities of individuals and groups; and

WHEREAS, the Council desires that the Kansas City Police Department has the resources available for the prosecution of hate offenses in the Kansas City Municipal Division of the Circuit Court so hate-motivated offenses can be better deterred and penalized; NOW, THEREFORE,

BE IT ORDAINED BY THE COUNCIL OF KANSAS CITY:

Section 1. That Chapter 1, Code of Ordinances of the City of Kansas City, Missouri, is hereby amended by repealing Section 1-17 and enacting in lieu thereof a new section of like number and subject matter to read as follows:

Sec. 1-17. General penalty; continuing violations.

(a) *General penalty.* Whenever in any section of this Code or in any ordinance the doing of any act is required or is prohibited or is declared to be unlawful or an ordinance violation, and either no specific fine or penalty is provided for a violation thereof or a specific penalty of imprisonment for more than six months is provided therefor, any such specific penalty provided by any such section or ordinance notwithstanding, any person who shall be convicted of a violation of any such provision of this codification or of any such ordinance shall, for each offense, be fined not less than \$1.00 and not more than \$500.00 where no specific fine is provided, or the fine so specifically provided where so provided, or be punished by imprisonment in the municipal correctional institution, not to exceed six months, or be punished by both fine and imprisonment.

(b) *Continuing violations.* Each day's violation of, or failure, refusal or neglect to comply with, any provision of this codification or of any other ordinance shall constitute a separate and distinct offense.

(c) *Limitation on applicability.* This section shall not apply to any section of this Code or to any ordinance in which there is expressly provided a penalty for its violation of imprisonment for a term not in excess of six months.

(d) *Enhanced minimum fine.* Notwithstanding subsection (c) of this section, the following enhanced minimum fine shall apply to every section of this Code, or other ordinance, unless expressly exempted:

(1) *Requirements.* If a person does all of the following, the minimum fine for the underlying offense shall be no less than \$300.00:

- a. Commits a violation of this Code or any ordinance.
- b. Intentionally selects the person against whom the violation as noted by subsection (d)(1)a of this section is committed or selects the property which is damaged or otherwise affected by the violation as noted by subsection (d)(1)a of this section because of the actor's belief or perception regarding the race, color, religion, national origin, sex, sexual orientation, gender identity or disability of that person or the owner or occupant or that property, whether or not the actor's belief or perception was correct.

(2) *Application.* This section provides for the enhancement of the penalties applicable for the underlying violation. The court shall find the existence of each requirement specified in subsection (d)(1) of this section.

(3) *Exception.* This section does not apply to any violation if proof of race, color, religion, national origin, sex, sexual orientation, gender identity or disability, or proof of any person's perception or belief regarding another's race, color, religion, national origin, sex, sexual orientation, gender identity or disability, is required for a conviction of that offense.

(e) *Enhanced penalty for hate-motivated offenses.*

(1) Notwithstanding subsection (a) of this section, for all violations listed in section 38-61 which the

City believes to be knowingly motivated because of race, color, religion, national origin, sex, sexual orientation, gender identity or disability of the victim or victims, the City may seek a sentence enhancement of up to sixty (60) days to run consecutive with a conviction of an underlying offense.

- (2) The court shall assess punishment in all cases in which the City pleads and proves any of the motivating factors listed in this section.

Approved as to form:

Andrew Bonkowski
Assistant City Attorney