

**HOUSE OF REPRESENTATIVES STAFF ANALYSIS**

**BILL #:** HB 11 Crimes Against Homeless Persons

**SPONSOR(S):** Porth and others

**TIED BILLS:** **IDEN./SIM. BILLS:**

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	<b>REFERENCE</b>	<b>ACTION</b>	<b>ANALYST</b>	<b>STAFF DIRECTOR</b>
1)	Public Safety & Domestic Security Policy Committee	13 Y, 0 N	Kramer	Cunningham
2)	Policy Council	14 Y, 1 N	Varn	Ciccone
3)	Criminal & Civil Justice Policy Council	14 Y, 1 N	Cunningham	Havlicak
4)				
5)				

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**SUMMARY ANALYSIS**

Currently, section 775.085, F.S., provides that the penalty for any felony or misdemeanor offense must be reclassified if the commission of the offense evidences prejudice based on the race, color, ancestry, ethnicity, religion, sexual orientation, national origin, mental or physical disability or advanced age of the victim. This is commonly known as the "hate crime" statute.

HB 11 amends this statute to include offenses evidencing prejudice based on the homeless status of the victim. This will have the effect of increasing the maximum sentence that can be imposed for an offense against a homeless person where the commission of the offense evidences prejudice based on the homeless status of the victim.

On February 23, 2010, the Criminal Justice Impact Conference determined that this bill would have an insignificant prison bed impact on the Department of Corrections.

The bill takes effect on October 1, 2010.

## HOUSE PRINCIPLES

Members are encouraged to evaluate proposed legislation in light of the following guiding principles of the House of Representatives

- Balance the state budget.
- Create a legal and regulatory environment that fosters economic growth and job creation.
- Lower the tax burden on families and businesses.
- Reverse or restrain the growth of government.
- Promote public safety.
- Promote educational accountability, excellence, and choice.
- Foster respect for the family and for innocent human life.
- Protect Florida's natural beauty.

## FULL ANALYSIS

### I. SUBSTANTIVE ANALYSIS

#### A. EFFECT OF PROPOSED CHANGES:

*Hate Crime Statute:* Currently, section 775.085, F.S., provides that the penalty for any felony or misdemeanor offense must be reclassified if the commission of the offense evidences prejudice based on the race, color, ancestry, ethnicity, religion, sexual orientation, national origin, mental or physical disability or advanced age of the victim. This is commonly referred to as a "hate crime" statute. Offenses are reclassified as follows:

- A misdemeanor of the second degree is reclassified to a misdemeanor of the first degree.
- A misdemeanor of the first degree is reclassified to a felony of the third degree.
- A felony of the third degree is reclassified to a felony of the second degree.
- A felony of the second degree is reclassified to a felony of the first degree.

Reclassification of an offense has the effect of increasing the maximum sentence that a judge can impose for the offense. The maximum sentence for a second degree misdemeanor is 60 days in jail and a \$500 fine; for a first degree misdemeanor is one year in jail and a \$1,000 fine; for a third degree felony is five years imprisonment and a \$5,000 fine; for a second degree felony is fifteen years imprisonment and a \$10,000 fine; and for a first degree felony is thirty years imprisonment and a \$10,000 fine.<sup>1</sup>

There is currently no section of statute that specifically applies to criminal offenses committed against a homeless person. In 2009, Maryland became the first state to amend their hate crime statute to specifically include homeless status.<sup>2</sup>

The bill amends section 775.085, F.S., the "hate crime" statute, to reclassify the felony or misdemeanor degree of a criminal offense if the commission of the offense evidences prejudice based on the *homeless status* of the victim.

The bill defines the term "homeless status" to mean that the victim:

1. lacks a fixed, regular, and adequate nighttime residence or

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<sup>1</sup> ss. 775.082 and 775.083 F.S.

<sup>2</sup> Maryland Criminal Law s. 10-304

2. has a primary nighttime residence that is:
  - a. A supervised publicly or privately operated shelter designed to provide temporary living accommodations; or
  - b. A public or private place not designed for, or ordinarily used as, a regular sleeping accommodation for human beings.

**B. SECTION DIRECTORY:**

Section 1. Amends s. 775.085, F.S., relating to evidencing prejudice while committing offenses; reclassification.

Section 2. Provides an effective date of October 1, 2010.

**II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT**

**A. FISCAL IMPACT ON STATE GOVERNMENT:**

1. Revenues:

None.

2. Expenditures:

On February 23, 2010, the Criminal Justice Impact Conference determined that this bill would have an insignificant prison bed impact on the Department of Corrections.

**B. FISCAL IMPACT ON LOCAL GOVERNMENTS:**

1. Revenues:

None.

2. Expenditures:

None.

**C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:**

None.

**D. FISCAL COMMENTS:**

None.

**III. COMMENTS**

**A. CONSTITUTIONAL ISSUES:**

1. Applicability of Municipality/County Mandates Provision:

Not applicable because this bill does not appear to: require the counties or cities to spend funds or take an action requiring the expenditure of funds; reduce the authority that cities or counties have to raise revenues in the aggregate; or reduce the percentage of a state tax shared with cities or counties.

2. Other:

None.

**B. RULE-MAKING AUTHORITY:**

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

**IV. AMENDMENTS/COUNCIL OR COMMITTEE SUBSTITUTE CHANGES**