

SENATE STAFF ANALYSIS AND ECONOMIC IMPACT STATEMENT

(This document is based only on the provisions contained in the legislation as of the latest date listed below.)

BILL: SB 1548

SPONSOR: Senator Dawson-White

SUBJECT: Hate Crimes

DATE: March 16, 1999

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Erickson</u>	<u>Cannon</u>	<u>CJ</u>	<u>Favorable</u>
2.	_____	_____	<u>FP</u>	_____
3.	_____	_____	_____	_____
4.	_____	_____	_____	_____
5.	_____	_____	_____	_____

I. Summary:

Senate Bill 1548 amends s. 775.085, F.S. (1998 Supp.), Florida's hate crimes law to provide enhanced penalties if the commission of a felony or misdemeanor offense evidences prejudice based upon gender.

This bill substantially amends the following section of the Florida Statutes: 775.085.

II. Present Situation:

A. Florida's Hate Crimes Law

Section 775.085, F.S. (1998 Supp.), Florida's hate crimes law, provides that the penalty for any felony or misdemeanor shall be "reclassified" if the commission of such felony or misdemeanor evidences prejudice based on the race, color, ancestry, ethnicity, religion, sexual orientation, national origin, mental or physical disability, or advanced age of the victim. The hate crimes statute does not address crimes evidencing prejudice based on gender.

If the commission of such felony or misdemeanor evidences such prejudice, the penalty for:

- a second degree misdemeanor shall be punishable as if it were a first degree misdemeanor;
- a first degree misdemeanor shall be punishable as if it were a third degree felony;
- a third degree felony shall be punishable as if it were a second degree felony;
- a second degree felony shall be punishable as if it were a first degree felony; and
- a first degree felony shall be punishable as if it were a life felony.

B. Gender and Other States' Hate Crimes Laws

According to the Anti-Defamation League, “[i]n the past eight years, as state legislators have realized that it is difficult to distinguish race-based and religion-based hate crimes from gender-based hate crimes, the trend has been to include gender in hate crimes legislation.” Anti-Defamation League Online (http://www.adl.org/frames/front_99hatecrime.html).

The hate crimes laws of the District of Columbia and the following 19 states punish crimes evidencing prejudice based upon gender: Arkansas; Arizona; California; Illinois; Iowa; Louisiana; Maine; Michigan; Minnesota; Mississippi; Nebraska; New Hampshire; New Jersey; New York; North Dakota; Rhode Island; Vermont; Washington; and West Virginia. *A Policymaker's Guide to Hate Crimes* (March 1997) (Monograph), U.S. Department of Justice, Bureau of Justice Assistance, NNCJ 162304, p. 28; Anti-Defamation League Online (http://www.adl.org/frames/front_99hatecrime.html).

C. Gender and Federal Hate Crimes Law

Section 280003 of the Violent Crime Control and Law Enforcement Act of 1994 is the federal counterpart to states' hate crimes statutes. The provision directs the United States Sentencing Commission to provide certain sentencing enhancement for offenses that the fact-finder at trial determines beyond a reasonable doubt are hate crimes. This measure applies, in part, to attacks and vandalism which occur in national parks and on federal property. The provision defines a “hate crime,” and that definition includes gender-bias. Anti-Defamation League Online (http://www.adl.org/frames/front_99hatecrime.html).

D. Reported Hate Crimes Based Upon Gender-Bias

The latest statistical information published by the Federal Bureau of Investigation does not report the number of hate crimes that are based on gender-bias. However, the Anti-Defamation League has reported that “there has not been an overwhelming number of gender-based crimes reported as an extension of domestic violence and rape cases.” Anti-Defamation League Online (http://www.adl.org/frames/front_99hatecrime.html).

III. Effect of Proposed Changes:

Senate Bill 1548 amends s. 775.085, F.S. (1998 Supp.), Florida's hate crimes law to provide enhanced penalties if the commission of a felony or misdemeanor offense evidences prejudice based upon gender.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Economic Impact and Fiscal Note:**A. Tax/Fee Issues:**

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

The Criminal Justice Estimating Conference has estimated that SB 1548 will have an insignificant fiscal impact.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Amendments:

None.