

By Senator Smith

29-01711-09

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1                   A bill to be entitled  
2           An act relating to homeless persons; amending s.  
3           775.085, F.S.; reclassifying offenses evidencing  
4           prejudice based on the homeless status of the victim;  
5           creating s. 784.0815, F.S.; providing a definition;  
6           providing a minimum sentence and other penalties for a  
7           person convicted of an aggravated assault or  
8           aggravated battery upon a homeless person; requiring  
9           the inclusion of housing status in certain crime  
10          reports; requiring reporting of such data; creating s.  
11          943.17165, F.S.; requiring the Department of Law  
12          Enforcement to develop a telecourse concerning hate  
13          crimes against homeless persons; requiring the  
14          department to consult subject matter experts for the  
15          development of the telecourse; requiring the  
16          department to develop a protocol that law enforcement  
17          personnel are required to follow concerning such  
18          offenses; requiring that crime prevention activities  
19          incorporate the protection of the homeless population;  
20          amending s. 1003.42, F.S.; requiring public school  
21          instruction in homelessness; requiring the Office of  
22          Program Policy Analysis and Government Accountability  
23          to conduct a study into the nature and scope of hate  
24          crimes or violent crimes that occur against homeless  
25          persons; requiring a report and recommendations by a  
26          specified date; providing effective dates.

27  
28   Be It Enacted by the Legislature of the State of Florida:  
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30 Section 1. Subsection (1) of section 775.085, Florida  
31 Statutes, is amended to read:

32 775.085 Evidencing prejudice while committing offense;  
33 reclassification.—

34 (1) (a) The penalty for any felony or misdemeanor shall be  
35 reclassified as provided in this subsection if the commission of  
36 such felony or misdemeanor evidences prejudice based on the  
37 race, color, ancestry, ethnicity, religion, sexual orientation,  
38 national origin, homeless status, mental or physical disability,  
39 or advanced age of the victim:

40 1. A misdemeanor of the second degree is reclassified to a  
41 misdemeanor of the first degree.

42 2. A misdemeanor of the first degree is reclassified to a  
43 felony of the third degree.

44 3. A felony of the third degree is reclassified to a felony  
45 of the second degree.

46 4. A felony of the second degree is reclassified to a  
47 felony of the first degree.

48 5. A felony of the first degree is reclassified to a life  
49 felony.

50 (b) As used in paragraph (a), the term:

51 1. "Mental or physical disability" means that the victim  
52 suffers from a condition of physical or mental incapacitation  
53 due to a developmental disability, organic brain damage, or  
54 mental illness, and has one or more physical or mental  
55 limitations that restrict the victim's ability to perform the  
56 normal activities of daily living.

57 2. "Advanced age" means that the victim is older than 65  
58 years of age.

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59       3. "Homeless status" means that the victim is homeless as  
60 the term is defined in s. 420.621.

61       Section 2. Section 784.0815, Florida Statutes, is created  
62 to read:

63       784.0815 Assault or battery on homeless persons.-

64       (1) For purposes of this section, the term "homeless" shall  
65 have the same meaning as provided in s. 420.621.

66       (2) A person who is convicted of an aggravated assault or  
67 aggravated battery upon a homeless person shall be sentenced to  
68 a minimum term of imprisonment of 3 years and fined not more  
69 than \$10,000 and shall also be ordered by the sentencing judge  
70 to make restitution to the victim of the offense and to perform  
71 up to 500 hours of community service work. Restitution and  
72 community service work shall be in addition to any fine or  
73 sentence that may be imposed and shall not be in lieu thereof.  
74 Notwithstanding the provisions of s. 948.01, adjudication of  
75 guilt or imposition of sentence shall not be suspended,  
76 deferred, or withheld.

77       Section 3. Housing status data collection.-Housing status  
78 shall be included with crime reports that are to be included in  
79 the uniform crime reporting data maintained by the Department of  
80 Law Enforcement. The requirements for reporting this data shall  
81 be developed by the department with the assistance of the  
82 National Coalition for the Homeless, the National Law Center on  
83 Homelessness & Poverty, and criminal justice professionals.  
84 Throughout the state, law enforcement officers shall collect  
85 housing status information from victims and suspects whenever  
86 the collection of such information is appropriate. The  
87 Department of Law Enforcement shall provide a summary report of

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88 this data to the National Coalition for the Homeless and to  
89 appropriate state agencies.

90 Section 4. Section 943.17165, Florida Statutes, is created  
91 to read:

92 943.17165 Hate crimes against homeless persons; course;  
93 protocols; activities.-

94 (1) (a) The department shall develop a telecourse on the  
95 plight of homeless persons that shall be made available to all  
96 law enforcement agencies in the state. Every state, local, and  
97 correctional law enforcement agency shall certify that each of  
98 its officers has taken the course. The telecourse shall address  
99 crimes against homeless persons and methods of dealing  
100 effectively and humanely with homeless persons. The course shall  
101 include instruction on each of the following topics:

102 1. Information about homelessness, including causes of  
103 homelessness, its impact, and solutions to homelessness.

104 2. Indicators of hate crimes.

105 3. The impact of these crimes on the victim, the victim's  
106 family, and the community.

107 4. The assistance and compensation available to victims.

108 5. The laws dealing with hate crimes and the legal rights  
109 of, and the remedies available to, victims of hate crimes.

110 6. Law enforcement procedures, reporting, and documentation  
111 of hate crimes.

112 7. Techniques and methods to handle incidents of hate  
113 crimes.

114 8. The special problems inherent in hate crimes against  
115 homeless persons and techniques on how to deal with these  
116 special problems.

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117 (b) In developing the telecourse, the department shall  
118 consult subject matter experts, including, but not limited to,  
119 the following:

120 1. Homeless and formerly homeless individuals.

121 2. The National Coalition for the Homeless and the National  
122 Law Center on Homelessness & Poverty.

123 3. Other local service providers and advocates for homeless  
124 people.

125 4. Experts on the disabilities homeless persons commonly  
126 experience.

127 5. Law enforcement agencies with experience investigating  
128 hate crimes against homeless people.

129 (c) The department shall develop a protocol relating to  
130 hate crimes against homeless persons that law enforcement  
131 personnel are required to follow, including, but not limited to,  
132 the following:

133 1. Preventing likely hate crimes by, among other things,  
134 establishing contact with persons and communities that are  
135 likely targets and forming community hate crime prevention and  
136 response networks and cooperating with such networks.

137 2. Responding to reports of hate crimes, including reports  
138 of hate crimes committed under color of legal authority.

139 3. Providing victim assistance and follow up, including  
140 community follow up.

141 4. Reporting methods and procedures to track hate crimes  
142 against homeless persons.

143 (2) Crime prevention activities shall incorporate the  
144 protection of the homeless population.

145 Section 5. Paragraph (u) is added to subsection (2) of

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146 section 1003.42, Florida Statutes, to read:

147 1003.42 Required instruction.—

148 (2) Members of the instructional staff of the public  
149 schools, subject to the rules of the State Board of Education  
150 and the district school board, shall teach efficiently and  
151 faithfully, using the books and materials required that meet the  
152 highest standards for professionalism and historic accuracy,  
153 following the prescribed courses of study, and employing  
154 approved methods of instruction, the following:

155 (u) The subject of homelessness, which shall be covered in  
156 ways such as expanding the Miami-Dade County Public Schools' "It  
157 could happen to you" curriculum on homelessness statewide and  
158 using the Faces of Homelessness Speakers' Bureau program of the  
159 National Coalition for the Homeless.

160  
161 The State Board of Education is encouraged to adopt standards  
162 and pursue assessment of the requirements of this subsection.

163 Section 6. Effective July 1, 2009, the Office of Program  
164 Policy Analysis and Government Accountability shall conduct a  
165 study into the nature and scope of hate crimes or violent crimes  
166 that are committed against people experiencing homelessness.

167 (1) The study shall include the following information  
168 concerning such crimes:

169 (a) The causes of such hate crimes and violence.

170 (b) The circumstances that contribute to or were  
171 responsible for the perpetrators' behavior.

172 (c) Beliefs held by the perpetrators of these crimes and  
173 any changes in those beliefs after conviction.

174 (2) The study's findings and any specific recommendations

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175 for legislation or government policy that might reduce the  
176 number of hate crimes and violent crimes committed against  
177 homeless persons shall be submitted to the Governor, the  
178 President of the Senate, and the Speaker of the House of  
179 Representatives by December 31, 2009.

180 Section 7. Except as otherwise expressly provided in this  
181 act and except for this section, which shall take effect July 1,  
182 2009, this act shall take effect October 1, 2009.