

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

Prepared By: The Professional Staff of the Committee on Judiciary

BILL: CS/SB 1272

INTRODUCER: Judiciary Committee and Senator Gruters

SUBJECT: Anti-Semitism

DATE: April 9, 2019

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Stallard	Cibula	JU	Fav/CS
2.			ED	
3.			RC	

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 1272 prohibits discrimination in the K-20 public education system against a student or employee based on religion. The bill further provides that a public K-20 educational institution must treat discrimination by student or employees resulting from institutional policies based on anti-Semitism in the same way it treats discrimination based on race.

For purposes of the hate crime statute and the prohibition against discrimination in the K-20 public education system, the bill lists examples of conduct or speech evidencing anti-Semitism.

II. Present Situation:

Non-Discrimination in Public Education

Section 1000.05, F.S., is a general non-discrimination statute relating to this state's public school system. It prohibits discrimination in this state's public K-20 education system on the basis of race, national origin, gender, disability, or marital status. As such, this section does not expressly prohibit discrimination on the basis of religion.¹

¹ Accordingly, s. 1002.20, F.S., which sets forth K-12 student and parent rights, does not include the right to be free from religious discrimination, though it does include the right to be free from other types of discrimination, such as racial discrimination.

However, s. 1002.206, F.S., prohibits discrimination in public schools against a student, parent, or school personnel based on a “religious viewpoint or religious expression.”² Beyond this broad prohibition, the statute’s focus is on protecting the rights of students, staff, and others to express their religious views and to participate in religious activities to the same extent that a person may express secular views and engage in secular activities. Accordingly, the statute specifies that a student may:

- Express his or her religious beliefs in coursework and in other ways “free from discrimination”;
- Wear clothing, accessories, and jewelry that display a religious message or symbol to the same extent that a student may wear items that display a secular message or symbol; and
- Pray or engage in religious activities or religious expression before, during, or after the school day to the same extent that a student may engage in secular activities or expression.³

Moreover, a school district may not prevent its personnel from participating in student-initiated religious activities on school grounds, and may not prohibit an outside group from using school facilities merely because the group is religious.⁴

III. Effect of Proposed Changes:

Prohibiting Anti-Semitism in the Public School System

The bill amends s. 1000.05, F.S., to add discrimination based on religion to the forms of discrimination which is prohibited in the public school system. Additionally, the bill requires that discrimination in the public school system “by students or employees or resulting from institutional policies motivated by anti-Semitic intent” be treated identically to “discrimination motivated by race.” The bill declares that nothing in this provision shall be construed to:

- Diminish or infringe upon any right protected under the First Amendment to the United States Constitution, or the State Constitution; or
- Conflict with federal or state discrimination laws.

For the purposes of s. 1000.05, F.S., the bill provides that “anti-Semitism” includes:

- A certain perception of the Jewish people, which may be expressed as hatred toward Jewish people.
- Rhetorical and physical manifestations of anti-Semitism directed toward a person, his or her property, or toward Jewish community institutions or religious facilities.

The bill provides that examples of anti-Semitism include:

- Calling for, aiding, or justifying the killing or harming of Jews, often in the name of a radical ideology or an extremist view of religion.
- Making mendacious, dehumanizing, demonizing, or stereotypical allegations about Jews as such or the power of Jews as a collective, especially, but not exclusively, the myth about a world Jewish conspiracy or of Jews controlling the media, economy, government, or other societal institutions.

² Section 1002.206(2), F.S.

³ Section 1002.206(3)-(4), F.S.

⁴ Section 1002.206(4)(b)1., and (c), F.S.

- Accusing Jews as a people of being responsible for real or imagined wrongdoings committed by a single Jewish person or group, the State of Israel, or even for acts committed by non-Jews.
- Accusing Jews as a people or the State of Israel of inventing or exaggerating the Holocaust.
- Accusing Jewish citizens of being more loyal to Israel, or the alleged priorities of Jews worldwide, than to the interest of their own nations.

The bill also provides that examples of anti-Semitism related to Israel include:

- Demonizing Israel by using the symbols and images associated with classic anti-Semitism to characterize Israel or Israelis, drawing comparisons of contemporary Israeli policy to that of the Nazis, or blaming Israel for all inter-religious or political tensions.
- Applying a double standard to Israel by requiring behavior of Israel that is not expected or demanded of any other democratic nation, or focusing peace or human rights investigations only on Israel.
- Delegitimizing Israel by denying the Jewish people their right to self-determination and denying Israel the right to exist.

Finally, the bill amends s. 1002.20, F.S., which describes student and parent rights within the K-12 public school system, to specify that students and parents have a right to be free of discrimination based on religion.

Effective Dates

The changes made by the bill to the hate crimes statute are effective October 1, 2019. The remainder of the bill takes effect July 1, 2019.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

This bill does not require counties or municipalities to spend funds or limit their authority to raise revenue or receive state-shared revenues as specified in Article VII, s. 18 of the Florida Constitution.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None identified.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

The Criminal Justice Impact Conference reviewed HB 741, a similar bill to SB 1272, to determine the impact of the bill on prison beds. The conference determined that the bill will have a positive insignificant impact on prison beds.⁵

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 1000.05, and 1002.20.

IX. Additional Information:

A. Committee Substitute – Statement of Substantial Changes:
(Summarizing differences between the Committee Substitute and the prior version of the bill.)

CS by Judiciary on April 8, 2019:

The committee substitute removes the definition of religion from the underlying bill. Additionally, the committee substitute declares that its provision requiring public school anti-Semitic discrimination to be treated identically to race-motivated discrimination is consistent with the state and federal constitutions and other laws.

⁵ Criminal Justice Impact Conference, Narrative Analysis of HB 741 – Anti-Semitism (Similar to SB 1272) (Feb. 27, 2019), <http://edr.state.fl.us/Content/conferences/criminaljusticeimpact/HB741.pdf>.

B. Amendments:

None.

This Senate Bill Analysis does not reflect the intent or official position of the bill's introducer or the Florida Senate.
