

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: SB 1272

INTRODUCER: Senator Gruters

SUBJECT: Anti-Semitism

DATE: April 7, 2019

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Stallard	Cibula	JU	Pre-meeting
2.			ED	
3.			RC	

I. Summary:

SB 1272 is intended to provide that hate crimes evidencing prejudice based on religion include crimes evidencing anti-Semitism. Under the current hate crime statute, a crime evidencing prejudice based on certain characteristics of the victim, including the victim's race, color, or religion, is reclassified to the next higher level.

The bill also 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:

Hate Crime

Section 775.085, F.S., and similar statutes in other states are commonly known as "hate crime" statutes.

Section 775.085, F.S., increases the penalty classification of a crime if a person's commission of the crime "evidences prejudice" based on the victim's:

- Religion;
- Color;
- Ancestry;
- Ethnicity;
- Race;

- Sexual orientation;
- National origin;
- Homeless status; or
- Advanced age.¹

This section defines “advanced age” and “homeless status,” but not “religion” or the other protected characteristics.

When a person commits a crime while evidencing prejudice based on one of these characteristics of the victim, the penalty classification must be increased one level, such as a second degree misdemeanor being reclassified as a first degree misdemeanor. This reclassification exposes the perpetrator to a more severe range of penalties.²

Non-Discrimination in Public Education

Section 1000.05, F.S., is a general non-discrimination statute relating to this state’s public school system, 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.³

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.”⁴ 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.⁵

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.⁶

¹ Section 775.085(1)(a), F.S.

² *Id.*

³ 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.

⁴ Section 1002.206(2), F.S.

⁵ Section 1002.206(3)-(4), F.S.

⁶ Section 1002.206(4)(b)1., and (c), F.S.

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 based on anti-Semitism” be treated identically to racial discrimination.

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 Jewish or non-Jewish individual or his or her property or toward Jewish community institutions or religious facilities.
- Calling for, aiding, or justifying the killing or harming of a Jewish person, often in the name of a radical ideology or an extremist view of religion.
- Making mendacious, dehumanizing, demonizing, or stereotypical allegations about a Jewish person as such or the power of the Jewish community as a collective, especially, but not exclusively, the myth about a world Jewish conspiracy or of the Jewish community controlling the media, economy, government or other societal institutions.
- Accusing the Jewish people as a people of being responsible for real or imagined wrongdoing committed by a single Jewish person or group, by the State of Israel, or even for acts committed by non-Jewish people.
- Accusing the Jewish people 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 Jewish people worldwide, than to the interest of their own nations.
- Demonizing Israel by using the symbols and images associated with classic anti-Semitism to characterize Israel, 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.

The bill additionally 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.

Anti-Semitism under the Hate Crimes Statute

Additionally, the bill aims to specify that anti-Semitism is a form of prejudice based on religion that, if evidenced in the commission of a crime, will subject the perpetrator to more severe penalties under this state’s hate crimes law. The description of anti-Semitism for purposes of the hate crimes law, is slightly narrower than the description of anti-Semitism above relating to

discrimination in the public school system. Accordingly, the bill describes anti-Semitism as for purposes of the hate crimes law as:

- Calling for, aiding, or justifying the killing or harming of Jewish people, often in the name of a radical ideology or an extremist view of religion.
- Making mendacious, dehumanizing, demonizing, or stereotypical allegations about Jewish people as such or the power of Jewish people as a collective, including allegations such as the myth about a world Jewish conspiracy or of Jewish people controlling the media, economy, government, or other societal institutions.
- Accusing the Jewish people as a people of being responsible for real or imagined wrongdoing committed by a single Jewish person or group, the State of Israel, or even for acts committed by non-Jewish people.
- Accusing the Jewish people as a people or the State of Israel of inventing or exaggerating the Holocaust.
- Accusing Jewish citizens of countries other than Israel of being more loyal to Israel, or the alleged priorities of Jewish people worldwide, than to the interest of their own nations.
- Demonizing Israel by using the symbols and images associated with classic anti-Semitism to characterize Israel, 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.

The bill expressly requires a law enforcement agency that is investigating an alleged violation of the hate crimes law to

take into consideration the requirements of [the hate crimes statute] and the definition of anti-Semitism for purposes of determining whether the alleged violation was motivated by anti-Semitism or other intent sufficient to fall within this section, consistent with federal statutes prohibiting hate crimes.⁷

Finally, the bill declares that this state's hate crimes statute does "not diminish or infringe upon any right protected under the First Amendment to the Constitution of the United States or the State Constitution." It also prohibits the hate crimes statute from being "construed to conflict with federal or state law."

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.

⁷ The United States Department of Justice describes several federal statutes as "hate crime laws." United States Department of Justice, *Hate Crime Laws*, <https://www.justice.gov/crt/hate-crime-laws> (last visited Mar. 31, 2019). This state's hate crime law does not appear to be modeled after any of them. Accordingly, it is unclear what it means for law enforcement to investigate these matter consistent with federal statutes prohibiting hate crimes.

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.⁸

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

⁸ Criminal Justice Impact Conference, Narrative Analysis of HB 741 – Anti-Semitism (Similar SB 1272) (Feb. 27, 2019), <http://edr.state.fl.us/Content/conferences/criminaljusticeimpact/HB741.pdf>.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 775.085, 1000.05, and 1002.20.

IX. Additional Information:

A. Committee Substitute – Statement of Changes:

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

None.

B. Amendments:

None.

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