

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 Rules

BILL: CS/SB 148

INTRODUCER: Judiciary Committee and Senator Berman and others

SUBJECT: Antisemitism

DATE: February 13, 2024

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Collazo</u>	<u>Cibula</u>	<u>JU</u>	Fav/CS
2.	<u>Collazo</u>	<u>Twogood</u>	<u>RC</u>	Pre-meeting

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 148 creates s. 1.015, F.S., which defines “antisemitism” based on the working definition developed and adopted by the International Holocaust Remembrance Alliance (IHRA). Under the bill, antisemitism means:

[A] certain perception of Jewish individuals which may be expressed as hatred toward such individuals. Rhetorical and physical manifestations of antisemitism are directed toward Jewish and non-Jewish individuals and their property and toward Jewish community institutions and religious facilities.

The bill also provides contemporary examples of antisemitism.

The bill states that the purpose of the definition is to “assist in the monitoring and reporting of anti-Semitic hate crimes and discrimination and to make residents aware of and to combat such incidents in this state.”

The bill takes effect on July 1, 2024.

II. Present Situation:

Evidencing Prejudice While Committing an Offense

The state’s hate crime statute, s. 775.085, F.S., reclassifies the penalty for any felony or misdemeanor to the next highest degree if the commission of the offense evidences prejudice

based on the race, color, ancestry, ethnicity, religion, sexual orientation, national origin, homeless status, or advanced age of the victim, 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.
- A felony of the first-degree is reclassified to a life felony.

The offender must have perceived, known, or have had reasonable grounds to perceive or know that the victim was within one of the classes delineated above for the penalty reclassification to apply.¹

Reporting of Hate Crimes

State law requires all law enforcement agencies in Florida to submit a monthly report to the Florida Department of Law Enforcement concerning any incidents of criminal acts that evidence prejudice based on race, religion, ethnicity, color, ancestry, sexual orientation, or national origin. The department is required to compile and disseminate such information upon request to any local law enforcement agency, unit of local government, or state agency. Additionally, the Florida Attorney General's Office must publish an annual summary of the compiled data.²

The office's 2022 summary on hate crimes reported that there were 229 hate crimes, classified as crimes against persons or crimes against property, for the year. This figure represented a 54.7 percent overall increase in hate crimes in Florida between 2021 and 2022. Of the hate crimes in 2022, 23.6 percent were motivated by religion.³ Moreover, the Anti-Defamation League reports that since 2020, antisemitic incidents in Florida increased over 100 percent, rising from 127 incidents in 2020 to 269 incidents in 2022.⁴ On a national level, Federal Bureau of Investigation data shows the number of reported hate crimes in the U.S. are the highest since collection of such data began in 1991, and more than doubled between 2014 and 2022.⁵ According to the Anti-Defamation League, in 2022, Florida was in the top five states where the highest number of anti-Semitic incidents occurred.⁶

¹ Section 775.085(1)(a) and (3), F.S.

² Section 877.19(2) and (4), F.S.

³ Florida Attorney General, *Hate Crimes in Florida January 1, 2022 – December 31, 2022*, at 5, https://www.myflorida.legal.com/sites/default/files/2023-12/2022-hate-crimes-report-1228.final_.pdf.

⁴ Center on Extremism, Anti-Defamation League (ADL), *Audit of Antisemitic Incidents 2022*, Mar. 23, 2023, <https://www.adl.org/resources/report/audit-antisemitic-incidents-2022>; Center on Extremism, ADL, *Hate in the Sunshine State: Extremism & Antisemitism in Florida, 2020-2022*, Sept. 13, 2022, <https://www.adl.org/resources/report/hate-sunshine-state-extremism-antisemitism-florida-2020-2022>.

⁵ Tori Morales Pinales, *How reports of hate crimes in the US were already at record highs, in 4 charts*, CNN, Dec. 11, 2023, <https://www.cnn.com/2023/10/29/us/hate-crimes-antisemitism-anti-muslim-dg/index.html> ("The FBI collects and publishes hate crime data but reporting is voluntary and only about 80% of agencies submit data. Compliance changes from year to year. The data is also an undercount: fewer than half of hate crime victims report to police, according to the FBI's National Crime Victimization Survey.")

⁶ Center on Extremism, Anti-Defamation League (ADL), *Audit of Antisemitic Incidents 2022*, Mar. 23, 2023, <https://www.adl.org/resources/report/audit-antisemitic-incidents-2022>.

International Holocaust Remembrance Alliance

The International Holocaust Remembrance Alliance (IHRA), formerly known as the Task Force for International Cooperation on Holocaust Education, Remembrance, and Research, was formed in 1998 by the former Swedish Prime Minister Göran Persson. Its current membership consists of 35 countries. IHRA's mission is to uphold the commitments contained in its founding document, the Declaration of the Stockholm International Forum on the Holocaust (Stockholm Declaration).⁷

The Stockholm Declaration is the product of the January 2000 International Forum convened in Stockholm. The forum was attended by representatives of 46 governments, including: 23 heads of state or prime ministers, and 14 deputy prime ministers or ministers.⁸ Some of the main tenets of the Stockholm Declaration include promoting the education, remembrance, and research of the Holocaust, commemorating victims of the Holocaust, and encouraging an annual day of remembrance in each member country.⁹

IHRA's Committee on Antisemitism and Holocaust Denial crafted a non-legally binding working definition of "antisemitism," which was fully adopted by the IHRA in 2016.¹⁰ The working definition was constructed by building an international consensus on the meaning of "antisemitism" in order to assist nations in addressing the rise in hate and discrimination. Subsequently, 43 United Nations member states, including the U.S., and a wide range of other political entities, including a large number of regional, state, and local governments, have adopted or endorsed IHRA's working definition.¹¹ Moreover, the following international organizations have expressed support for the working definition of antisemitism: the United Nations, the European Union, the Organization of American States, the Council of Europe, and PARLASUR, the Parliament of MERCOSUR.¹²

IHRA's working definition of antisemitism provides:

Antisemitism is a certain perception of Jews, which may be expressed as hatred toward Jews. Rhetorical and physical manifestations of antisemitism are directed toward Jewish or non-Jewish individuals and/or their property, toward Jewish community institutions and religious facilities.¹³

IHRA also provides the following contemporary examples of antisemitism:

⁷ International Holocaust Remembrance Alliance (IHRA), *About the International Holocaust Remembrance Alliance*, <https://holocaustremembrance.com/who-we-are> (last visited Jan. 23, 2024).

⁸ IHRA, *Stockholm Declaration*, <https://holocaustremembrance.com/resources/stockholm-declaration> (last visited Jan. 23, 2024).

⁹ *Id.*

¹⁰ IHRA, *Working definition of antisemitism*, <https://holocaustremembrance.com/resources/working-definition-antisemitism> (last visited Jan. 23, 2024).

¹¹ *Id.*

¹² *Id.* MERCOSUR is a regional trade bloc comprised of Argentina, Brazil, Paraguay, and Uruguay. Celeste Castillejo et al., *Explainer: What Is Mercosur?*, American Society/Council of the Americas, Aug. 23, 2022, <https://www.as-coa.org/articles/explainer-what-mercotur>.

¹³ IHRA, *Working definition of antisemitism*, <https://holocaustremembrance.com/resources/working-definition-antisemitism> (last visited Jan. 23, 2024).

- Calling for, aiding, or justifying the killing or harming of Jews in the name of a radical ideology or an extremist view of religion.
- Making mendacious, dehumanizing, or stereotypical allegations about Jews as such, or the power of Jews as a collective – such as, especially but not exclusively, the myth about a world Jewish conspiracy or of Jews controlling the media, economy, government, or other societal institutions.
- Accusing Jews as a people of being responsible for real or imagined wrongdoing committed by a single Jewish person or group, or even for acts committed by non-Jews.
- Denying the fact, scope, mechanisms (*e.g.* gas chambers), or intentionality of the genocide of the Jewish people at the hands of National Socialist Germany and its supporters and accomplices during World War II (the Holocaust).
- Accusing the Jews as a people, or Israel as a state, of inventing or exaggerating the Holocaust.
- Accusing Jewish citizens of being more loyal to Israel, or to the alleged priorities of Jews worldwide, than to the interests of their own nations.
- Denying the Jewish people their right to self-determination, *e.g.*, by claiming that the existence of a State of Israel is a racist endeavor.
- Applying double standards by requiring of it a behavior not expected or demanded of any other democratic nation.
- Using the symbols and images associated with classic antisemitism (*e.g.* claims of Jews killing Jesus or blood libel) to characterize Israel and Israelis.
- Drawing comparisons of contemporary Israeli policy to that of the Nazis.
- Holding Jews collectively responsible for actions of the state of Israel.¹⁴

Current Definition in Florida Law

State law currently codifies a definition of “anti-Semitism” in s. 1000.05(8), F.S., relating to the identification of discrimination in K-20 public education. The definition closely mirrors the IHRA’s working definition of antisemitism and specifies that the term “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.¹⁵

Additionally, s. 1000.05(8), F.S., also includes the following examples of anti-Semitism, including those related to Israel, which are almost identical to those provided by the IHRA:

- 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.

¹⁴ *Id.*

¹⁵ Section 1000.05(8), F.S.

- Accusing Jews 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-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.¹⁶
- 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.¹⁷

However, s. 1000.05(8), F.S., specifies that criticism of Israel that is similar to criticism toward any other country may not be regarded as anti-Semitic.¹⁸

Although currently codified, the definition and examples of antisemitism apply only for the purposes of s. 1000.05, F.S., which, notably, requires public K-20 educational institutions to “treat discrimination by students or employees or resulting from institutional policies motivated by anti-Semitic intent in an identical manner to discrimination motivated by race.”

III. Effect of Proposed Changes:

The bill creates s. 1.015, F.S., entitled “Antisemitism,” which provides a definition for the term.

The bill provides that it is the intent of the Legislature to adopt the working definition developed by the International Holocaust Remembrance Alliance (IHRA) of the term “antisemitism,” to assist in the monitoring and reporting of anti-Semitic hate crimes and discrimination, and to make residents aware of, and to combat, such incidents in the state.

The bill provides that, as adopted by the IHRA on May 26, 2016, and as used in state statutes, the term “antisemitism” means:

[A] certain perception of Jewish individuals which may be expressed as hatred toward such individuals. Rhetorical and physical manifestations of antisemitism are directed toward Jewish and non-Jewish individuals and their property, and toward Jewish community institutions and religious facilities.

The bill identifies contemporary examples of antisemitism, which include, but are not limited to, all of the following:

- Calling for, aiding, or justifying the killing or harming of Jewish individuals.

¹⁶ Section 1000.05(8)(a), F.S.

¹⁷ Section 1000.05(8)(b), F.S.

¹⁸ *Id.*

- Making mendacious, dehumanizing, demonizing, or stereotypical allegations about Jewish individuals as such or the power of Jewish people as a collective, such as, the myth of a worldwide Jewish conspiracy or of Jewish individuals controlling the media, economy, government, or other societal institutions.
- Accusing Jewish people as a collective of being responsible for real or imagined wrongdoing committed by a single Jewish person or group, or for acts committed by non-Jewish individuals.
- Denying the fact, scope, and mechanisms, such as gas chambers, or the intentionality of the genocide of the Jewish people at the hands of Nazi Germany and its supporters and accomplices during the Holocaust.
- Accusing Jewish people as a collective, or Israel as a state, of inventing or exaggerating the Holocaust.
- Accusing Jewish citizens of being more loyal to Israel, or to the alleged priorities of Jewish individuals worldwide, than to the interests of their respective nations.
- Denying the Jewish people their right to self-determination, such as claiming that the existence of a State of Israel is a racist endeavor.
- Applying double standards by requiring of the Jewish state of Israel a standard of behavior not expected or demanded of any other democratic nation.
- Using the symbols and images associated with classic antisemitism, such as blood libel, to characterize Israel or Israelis.
- Drawing comparisons of contemporary Israeli policy to that of the Nazis.
- Holding Jewish individuals collectively responsible for actions of the state of Israel.

The bill also provides that:

- The term “antisemitism” does not include criticism of Israel that is similar to criticism of any other country.
- The bill may not be construed to diminish or infringe upon any right protected under the First Amendment to the U.S. Constitution or to conflict with federal or state antidiscrimination laws.

The bill takes effect on July 1, 2024.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

None.

VI. Technical Deficiencies:

None.

VII. Related Issues:

The bill codifies the definition of “antisemitism” in chapter 1, F.S., a chapter that is known for defining terms that are used throughout the Florida Statutes. The term, however, is currently used only in s. 1000.05, F.S., an education statute, and the term is accompanied by a definition for use in that statute.

The education statute uses the term anti-Semitism in a substantive provision—a prohibition against discrimination motivated by “anti-Semitic intent” at public K-20 educational institutions.¹⁹ In contrast, the bill provides a definition accompanied by the stated purposes of “assist[ing] in the monitoring and reporting of anti-Semitic hate crimes and discrimination and to make residents aware of and to combat such incidents in this state.” Without using the defined term in substantive provisions that directly prohibit misconduct, it is not clear how the bill will effectuate its purposes.

Accordingly, the Legislature may wish to revise the bill in a way that the defined term is used in the substantive provisions of the hate crime statute, s. 775.085, F.S., and in the substantive provisions of the anti-discrimination statutes in chapter 760, F.S. Another option would be to delete the definition of anti-Semitism from s. 1000.05, F.S., in favor of the definition provided

¹⁹ Section 1000.05(8), F.S., states in pertinent part that a “public K-20 educational institution must treat discrimination by students or employees or resulting from institutional policies motivated by anti-Semitic intent in an identical manner to discrimination motivated by race.” Violations of the prohibition against anti-Semitic discrimination may be enforced by an aggrieved person through a civil action for equitable relief and the prevailing party in the action may be awarded reasonable attorney’s fees and court costs. Section 1000.05(9), F.S.

by the bill. Nonetheless, the definition of antisemitism in the bill may be construed to apply to the use of the term in future statutes.

VIII. Statutes Affected:

This bill creates section 1.015 of the Florida Statutes.

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 January 29, 2024:

- Removes the following from the list of contemporary examples of antisemitism:
 - The killing or harming of Jewish individuals in the name of a radical ideology or extremist view of a religion.
 - Using claims of Jews killing Jesus as a symbol or image of classic antisemitism, to characterize Israel or Israelis.
- Adds the following provisions:
 - The term “antisemitism” does not include criticism of Israel that is similar to criticism of any other country.
 - This section may not be construed to diminish or infringe upon any right protected under the First Amendment to the U.S. Constitution or to conflict with federal or state antidiscrimination laws.

B. Amendments:

None.