

SB 178 – Crimes Evidencing Prejudice

Amends s. 775.085, F.S., including “actual or perceived” to each potential victim category for commission of a felony or misdemeanor evidencing prejudice, and also adds “sex” and “creed” to the potential basis for prejudice. Additionally, this bill adds law enforcement officers and emergency service employees as potential victims of crimes evidencing prejudice.

S. 943.10, F.S. defines a law enforcement officer to be any person who “is vested with authority to bear arms and make arrests; and whose primary responsibility is the prevention and detection of crime or the enforcement of the penal, criminal, traffic, or highway laws of the state.” Emergency service employees are defined using s. 494.04, F.S., stating one to be “an employee who is a firefighter, as defined in s. 633.102, or ambulance driver, emergency medical technician, or paramedic, as defined in s. 401.23.” With this bill, the penalty for any felony or misdemeanor shall be reclassified as provided in this subsection if the commission of such felony or misdemeanor evidences prejudice based on actual or perceived sex, creed, or employment as a law enforcement officer or emergency service employee.

- 2nd degree misdemeanor increased to 1st degree misdemeanor
- 1st degree misdemeanor increased to 3rd degree felony
- 3rd degree felony increased to 2nd degree felony
- 2nd degree felony increased to 1st degree felony
- 1st degree felony increased to life felony

There is currently no data available on whether crimes committed against persons evidenced prejudice based on their sex or creed. Nationwide, the Uniform Crime Reports (UCR) for 2016 note that there were 28 known offenders who committed offenses with Anti-Male/Anti-Female motivations. However, it is unknown how many states currently have these laws.

Per FDLE’s statewide UCR, in 2016, there were 124 offenses, with 34 (adj.) arrests for hate crimes. Also per FDLE’s Computerized Criminal History (CCH) files, in FY 16-17, there were 5 arrests, with 1 guilty/convicted for a 1st degree misdemeanor under s. 775.085, F.S., with arrests possibly overlapping with UCR. However, since these statutes reclassify felonies, such acts might not be captured in the initial arrest.

Since July 1, 2012 there has been one adjudication withheld for a 3rd degree felony under s. 775.085, F.S., and one 1st degree misdemeanor guilty conviction. Per DOC, no inmates were admitted to the prison system in FY 16-17 who committed a misdemeanor that was elevated to a felony by this statute. Furthermore, DOC does not have data available on those felonies that were increased due to this statute. However, there is data on assault/battery against law enforcement officers and emergency service employees, with 447 (adj.) offenders sentenced to prison in FY 16-17 for these crimes.

It is not known how many of these admissions focused strictly on law enforcement or emergency service employees, since other types of employees are included. It is also not known how many of these admissions were crimes that evidenced prejudice based on the victim's employment, or how many 1st degree misdemeanors against those in these employment categories would be elevated to felonies due to crimes evidencing prejudice.

CONFERENCE ADOPTED ESTIMATE: Positive Indeterminate

Requested by: Senate