

## **SB 588 – Crimes Evidencing Prejudice (Similar HB 211)**

Amends s. 775.085, F.S., including that the commission of a felony or misdemeanor evidences prejudice “in whole or in part” for each potential victim category, and also adds “gender” and “gender identity” to the potential basis for prejudice. Gender identity is defined as “a person’s gender-related identity, appearance, or behavior, regardless of whether such gender-related identity, appearance, or behavior is different from that traditionally associated with the person’s physiology or assigned sex at birth.” This bill also amends s. 775.0863, F.S., also adding “in whole or in part” for evidencing prejudice while committing an offense against a person with a disability. Disability is now defined as “a physical or mental impairment that substantially limits one or more of a person’s major life activities.” With this bill, the penalty for any felony or misdemeanor shall be reclassified as provided in this subsection if during the commission of such felony or misdemeanor evidences prejudice is in whole or in part based on currently existing victim categories, as well as gender or gender identity and the newly expanded definition of disability.

2<sup>nd</sup> degree misdemeanor increased to 1<sup>st</sup> degree misdemeanor

1<sup>st</sup> degree misdemeanor increased to 3<sup>rd</sup> degree felony

3<sup>rd</sup> degree felony increased to 2<sup>nd</sup> degree felony

2<sup>nd</sup> degree felony increased to 1<sup>st</sup> degree felony

1<sup>st</sup> degree felony increased to life felony

There is currently no data available on whether crimes committed against persons evidenced prejudice based on their gender or gender identity. Nationwide, the Uniform Crime Reports (UCR) for 2016 note that there were 28 known offenders who committed offenses with Anti-Male/Anti-Female motivations. There were 165 known offenders who committed offenses with Anti-Transgender/Anti-Gender Non-Conforming 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 arrests for hate crimes. There were 45 offenses motivated by sexual orientation, with 10 arrests, and one offense motivated by mental disability, with one arrest. Also per FDLE’s Computerized Criminal History (CCH) files, in FY 16-17, there were 5 arrests, with 1 guilty/convicted for a 1<sup>st</sup> degree misdemeanor under s. 775.085, F.S., with arrests possibly overlapping with UCR. There were no arrests under the newly created s. 775.0863, F.S. for evidencing prejudice during an offense against someone with a mental or physical disability. 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 3<sup>rd</sup> degree felony under s. 775.085, F.S., and one 1<sup>st</sup> 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.

**CONFERENCE ADOPTED ESTIMATE: Positive Indeterminate**

**Requested by: Senate**