

1989

Session Law 89-132

Florida Senate & House of Representatives

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House of Representatives, Florida Senate &, "Session Law 89-132" (1989). *Staff Analysis*. 986.
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H 1111 GENERAL BILL/CS/1ST ENG by Criminal Justice; King; Gordon; Renke and others (Similar CS/S 1211)

Hate Crimes Reporting Act; creates said act; requires acquisition & publication of data re certain crimes; provides limitation on use & content of such data; requires Attorney General to publish annual summary. Appropriation. Effective Date: 10/01/89.

03/21/89 HOUSE Prefiled
03/24/89 HOUSE Referred to Criminal Justice; Appropriations
03/31/89 HOUSE Subreferred to Subcommittee on Prosecution and Punishment
04/04/89 HOUSE Introduced, referred to Criminal Justice; Appropriations -HJ 105; Subreferred to Subcommittee on Prosecution and Punishment
04/11/89 HOUSE On Committee agenda—Criminal Justice, 04/13/89, 8:00 am, 21-HOB—For ratification of referral to subcommittee
04/21/89 HOUSE On subcommittee agenda—Criminal Justice, 04/25/89, 8:30 am, 21-HOB
04/25/89 HOUSE Subcommittee Recommendation: Favorable as a proposed CS; On Committee agenda—Criminal Justice, 04/27/89, 1:30 pm, 21-HOB—Not considered
04/28/89 HOUSE On Committee agenda—Criminal Justice, 05/02/89, 8:30 am, 21-HOB
05/02/89 HOUSE Preliminary Committee Action by Criminal Justice: Favorable as a CS
05/12/89 HOUSE Comm. Report: CS by Criminal Justice -HJ 486; CS read first time -HJ 485; Now in Appropriations -HJ 486
05/19/89 HOUSE Withdrawn from Appropriations -HJ 548; Placed on Calendar
05/24/89 HOUSE Placed on Special Order Calendar
05/29/89 HOUSE Read second time -HJ 765; Amendment adopted; Read third time; CS passed as amended; YEAS 110 NAYS 0 -HJ 766
05/29/89 SENATE In Messages
05/31/89 SENATE Received, referred to Judiciary-Criminal; Appropriations -SJ 621; Withdrawn from Judiciary-Criminal; Appropriations; Substituted for CS/SB 1211; CS passed; YEAS 34 NAYS 0 -SJ 663
05/31/89 Ordered enrolled
06/20/89 Signed by Officers and presented to Governor
06/26/89 Approved by Governor; Chapter No. 89-132

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NOTES: Above bill history from Division of Legislative Information's *FINAL LEGISLATIVE BILL INFORMATION, 1989 SESSIONS*. Staff Analyses for bills amended beyond final committee action may not be in accordance with the enacted law. Journal page numbers (HJ & SJ) refer to daily Journals and may not be the same as final bound Journals.

STORAGE NAME: h1111d.cj
DATE: June 6, 1989

HOUSE OF REPRESENTATIVES
CRIMINAL JUSTICE COMMITTEE
FINAL STAFF ANALYSIS & ECONOMIC IMPACT STATEMENT

BILL #: CS/HB 1111

RELATING TO: Hate Crimes Reporting Act

SPONSOR(S): Criminal Justice, Representatives King, Gordon, Renke, and others

EFFECTIVE DATE: October 1, 1989, or upon becoming a law.

DATE BECAME LAW: June 26, 1989

CHAPTER #: 89-132, Laws of Florida

COMPANION BILL(S): Similar CS/SB 1211

OTHER COMMITTEES OF REFERENCE: (1) Appropriations
(2)

I. SUMMARY:

A. PRESENT SITUATION:

There is currently no provision in Florida law for reporting of crimes based on prejudice or bias as defined in this bill.

B. EFFECT OF PROPOSED CHANGES:

This bill creates the "Hate Crimes Reporting Act" to require the collection and dissemination of data on incidents of criminal acts that evidence prejudice based upon race, religion, ethnicity, color, ancestry or national origin. The Attorney General is required to publish an annual summary of the data.

C. SECTION-BY-SECTION ANALYSIS:

Section 1 provides that the Governor through the Florida Department of Law Enforcement shall collect and disseminate data on incidents of criminal acts evidencing prejudice based on race, religion, ethnicity, color, ancestry or national origin, based upon monthly reports from all law enforcement agencies. The Attorney General shall publish an annual summary of the information.

All confidentiality requirements currently imposed by law govern dissemination of data collected hereunder. Section 119.07(3)(h) provides that criminal intelligence information or criminal investigative information which reveals the identity of the victim of sexual battery defined in chapter 794; a victim of a

lewd, lascivious, or indecent assault upon or in the presence of a child, defined in chapter 800; and a victim of child abuse defined in chapter 827; are exempt from the public records law, including the photograph, name, address or other fact or information revealing the identity of a victim of a sexual offense proscribed in chapters 794, 800 or 827. Section 119.07(3)(i) exempts criminal intelligence information or criminal investigative information which reveals the personal assets of the victim of a crime other than property stolen or destroyed during the commission of a crime.

The bill further allows information required under this section to be used for research or statistical purposes and the identities of any individual victims of crime may not be revealed.

Section 2 provides for a sufficient appropriation from the General Revenue Fund to FDLE and the Attorney General to cover the needs of this bill.

Section 3 provides an effective date of October 1, 1989.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT:

A. FISCAL IMPACT ON STATE AGENCIES/STATE FUNDS:

1. Non-recurring or First Year Start-Up Effects:

For FDLE:
OPS \$12,300
OCO \$14,053

For Attorney General: -0-

2. Recurring or Annualized Continuation Effects:

For FDLE (for each of fiscal years 89-90, 90-91, 91-92):
Salaries/Benefits \$18,594
Expenses \$3,113

For Attorney General (fiscal years 89-90, 90-91, 91-92):
Printing and Publications
and Distribution Cost \$5000

3. Long Run Effects Other Than Normal Growth:

None

4. Appropriations Consequences:

For FDLE from General Revenue:
Year 1 (FY 89-90) Year 2 (FY 90-91) Year 3 (FY 91-92)
 \$48,060 21,707 21,707

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For Attorney General:
Year 1 (FY 89-90) \$5000
Year 2 (FY 90-91) \$5000
Year 3 (FY 91-92) \$5000

B. FISCAL IMPACT ON LOCAL GOVERNMENTS AS A WHOLE:

1. Non-recurring or First Year Start-Up Effects:

Indeterminate, and could include training of officers and form design.

2. Recurring or Annualized Continuation Effects:

Indeterminate and would include processing and preparation of reports.

3. Long Run Effects Other Than Normal Growth:

None

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

1. Direct Private Sector Costs:

None

2. Direct Private Sector Benefits:

None

3. Effects on Competition, Private Enterprise, and Employment Markets:

None

D. FISCAL COMMENTS:

III. LONG RANGE CONSEQUENCES:

This is consistent with the State Comprehensive Plan's goals of protecting the public by preventing, discouraging and punishing criminal behavior.

IV. COMMENTS:

FDLE cites various problems relating to law enforcement and FDLE and the collection of bias crime data. FDLE states: "...it is extremely difficult to define exactly what a bias crime is. As a result, training of law enforcement officers to look for and recognize a bias crime will result in them making assumptions about an offender's motive." Also, they are concerned about labeling victims on offense reports since some of these reports may become public records. They note that this may increase local law enforcement's workload to the

degree that local law enforcement agencies will not support the data collection.

CS/HB 1112 establishes criminal penalties for committing bias crimes.

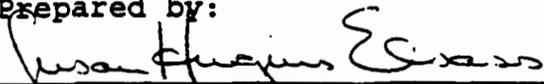
According to the Anti-Defamation League's ADL Report, several other states including Connecticut, Illinois, Maryland, Minnesota, New Jersey, Oregon, Pennsylvania, and Virginia provide for bias crimes data collection.

Several states also list sex and sexual preference in their bias crime laws.

V. SIGNATURES:

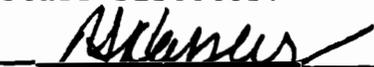
SUBSTANTIVE COMMITTEE:

Prepared by:



Susan Hugins Elsass

Staff Director:



Robin S. Hassler

SECOND COMMITTEE OF REFERENCE:

Prepared by:

Staff Director:

APPROPRIATIONS:

Prepared by:

Staff Director:

REVISED: _____

BILL NO. CS/SB 1211

DATE: May 8, 1989

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SENATE STAFF ANALYSIS AND ECONOMIC IMPACT STATEMENT

<u>ANALYST</u>	<u>STAFF DIRECTOR</u>	<u>REFERENCE</u>	<u>ACTION</u>
1. Rudolph <i>HR</i>	Liepshutz <i>MA</i>	1. JCR _____	<u>FAV/CS</u>
2. _____	_____	2. AP _____	_____
3. _____	_____	3. _____	_____
4. _____	_____	4. _____	_____

SUBJECT:

Crime Information

BILL NO. AND SPONSOR:

CS/SB 1211 by Committee on
Judiciary-Criminal and
Senators Stuart and Girardeau

I. SUMMARY:

A. Present Situation:

Hate crime, otherwise known as bias crime, refers to criminal acts motivated by prejudice, which may be based on race, religion, ethnicity, color, ancestry or national origin. Hate crime typically takes the form of verbal or physical threats, assaults, and graffiti vandalism and other property damage, although it may have more serious consequences. For example, on March 5, 1988, two youths proclaiming to be members of a white supremacist group known as "skinheads" were arrested in Clearwater, Florida for the stabbing death of a black man and, subsequently, were convicted.

Currently, no statistics are kept on the number or type of hate crimes occurring statewide. Chapter 943, F.S., provides for the collection, reporting and dissemination of offense and arrest data by local law enforcement in coordination with the Florida Department of Law Enforcement (FDLE). These provisions, however, do not require the compilation of bias crime data.

To some extent, the Pinellas County Sheriff's Office already collects hate crime information. This recordkeeping is a by-product of investigative efforts conducted by the Intelligence Unit Bias Crime Squad which has been established within the Law Enforcement Operations Bureau. This unit investigates and monitors violent crimes and property crimes that are motivated by religious, racial or ethnic hatred. Files are maintained of all incidents involving hate crime.

It has come to staff's attention that the Gainesville Police Department and a few organized police intelligence units throughout the state also attempt to collect this type of crime information.

B. Effect of Proposed Changes:

CS/SB 1211 would create the "Hate Crimes Reporting Act," which would require local law enforcement agencies to collect data on incidents of hate crime and to report this data monthly to FDLE. FDLE would be responsible for establishing the reporting procedures to be used by local agencies, for compiling the collected data, and for disseminating it to local law enforcement agencies and units of local government or state agencies which request it.

Dissemination of hate crime data would be subject to all confidentiality requirements imposed by law. Further, recipients of hate crime data would be limited to using this information for research or statistical purposes only.

The Attorney General would be required to publish an annual summary of hate crime information collected pursuant to this act.

In addition, CS/SB 1211 would provide for sufficient appropriations to FDLE and the Office of the Attorney General for the purpose of carrying out the provisions of this act. The appropriations amount, however, is not specified.

II. ECONOMIC IMPACT AND FISCAL NOTE:

A. Public:

None.

B. Government:

According to the Florida Department of Law Enforcement, CS/SB 1211 would have the following fiscal impact on the department: for year 1 (F/Y 1989-90), \$31,800; for year 2 (F/Y 1990-91), \$6,000; and for year 3 (F/Y 1991-92), \$6,000. These costs are based on 1) non-recurring or first-year start-up expenses, which include operating capital outlay and associated expenses such as development of computer software and 2) recurring or annualized continuation expenses, which include expenses such as development and printing of manuals.

The Criminal Justice Information Systems Division of FDLE has requested 7 additional positions for the division for F/Y 1989-90. These positions, if approved, would accommodate the workload created by passage of this bill. It should be noted, however, that if these positions are not approved, the estimated fiscal impact should be modified to reflect an additional position needed in order to process bias crime data.

According to the Office of the Attorney General, the estimated fiscal impact on the office would be \$5,000 for each year. This cost includes printing, publication and distribution expenses associated with the annual report requirement.

At the local level, this legislation would require the development and design of new report forms, additional training of law enforcement officers and ongoing costs of processing reports. The fiscal impact, however, on the local law enforcement agencies is indeterminable.

III. COMMENTS:

To date, six states (Connecticut, New Jersey, Pennsylvania, Maine, Maryland and Illinois) have enacted legislation establishing bias crime reporting programs. In addition, several municipalities, including New York City, Boston and San Francisco, have been collecting bias crime data.

Last year, the United States Congress considered legislation which would have created the "Hate Crime Statistics Act." (H.R.3193, sponsored by Representative Conyers.) This bill would have required the Department of Justice annually to collect and publish statistics on certain enumerated crimes, such as homicide, assault, burglary, theft, arson, vandalism, trespass and threats, which manifest prejudice based on race, religion, sexual orientation, or ethnicity. Although the bill was unsuccessful, it has been reintroduced in this congressional session. (S.R. 419, sponsored by Senator Simon).

According to the Anti-Defamation League of B'nai B'rith, the systematic gathering of hate crime statistics will lead to a new level of awareness of the problem of hate crimes, and will increase the ability of law enforcement officials to measure trends and develop effective prevention strategies. Further, it is suggested that such a reporting system would demonstrate to a community that

law enforcement officials have a genuine interest in the problem of bias crimes and a stake in vigorously pursuing the offenders. Anti-Defamation League of B'nai B'rith, Legal Affairs Department, Civil Rights Division, Hate Crimes Statutes: A Response to Anti-Semitism, Vandalism and Violent Bigotry (Spring/Summer 1988).

A related Senate bill, SB 1210, sponsored by Senators Stuart and Girardeau, would provide enhanced penalties when crimes evidencing prejudice are committed.

IV. AMENDMENTS:

None.