

RESOLUTION NO. _____

A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF KEY WEST, FLORIDA, URGING THE FLORIDA LEGISLATURE TO AMEND SECTION 775.085 OF THE FLORIDA STATUTES TO INCLUDE ENHANCED PENALTIES FOR FELONIES AND MISDEMEANORS COMMITTED AGAINST LAW ENFORCEMENT OFFICERS, FIREFIGHTERS, EMERGENCY SERVICES PERSONNEL AND CODE ENFORCEMENT OFFICERS DUE TO THEIR EMPLOYMENT STATUS; PROVIDING FOR AN EFFECTIVE DATE

WHEREAS, in 1989, the Florida Legislature enacted several statutes designed to address the issue of hate crimes. For example, Section 775.085 of the Florida Statutes was created to increase penalties for convictions of crimes where there was evidence of certain prejudice; and

WHEREAS, in addition, the Florida Legislature enacted the Hate Crimes Reporting Act in Section 877.19 of the Florida Statutes, to require law enforcement agencies to report hate crimes to the Florida Department of Law Enforcement (FDLE) and, further requires the Florida Attorney General to publish an annual summary of the reported data; and

WHEREAS, the 1995 report of the Florida Attorney General stated that a "hate crime is among the most insidious acts taken by one person against another, founded in prejudice and intolerance." The report defined a hate crime as "an act committed

or attempted by one person or group against another person or group, or their property, that in any way constitutes an expression of hatred toward the victim based on his her personal characteristics;" and

WHEREAS, under Section 775.085 of the Florida Statutes, criminal penalties are enhanced for certain hate-based acts. Reported hate crime offenses range in seriousness from vandalism and intimidation to aggravated battery and murder; and

WHEREAS, there has been an increasing number of hate crimes against law enforcement officers, and such officers, as well as firefighters, emergency services personnel, and code enforcement officers should be protected under Florida laws that enhance penalties for hate crimes.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COMMISSION OF THE CITY OF KEY WEST, FLORIDA, AS FOLLOWS:

Section 1: That the City Commission hereby urges the Florida Legislature to amend Section 775.085 of the Florida Statutes to include employment as law enforcement officers, firefighters, emergency services personnel, and code enforcement officers among the classifications that are protected against hate crimes as set forth below (proposed amendments are underlined):

**775.085 Evidencing prejudice while committing offense;
reclassification.**

(1)(a) 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 the race, color, ancestry, ethnicity, religion, sexual orientation, national origin, homeless status, or advanced age of the victim or because of actual or perceived employment as a law enforcement officer, firefighter, emergency services personnel, or code enforcement officer:

1. A misdemeanor of the second degree is reclassified to a misdemeanor of the first degree.

2. A misdemeanor of the first degree is reclassified to a felony of the third degree.

3. A felony of the third degree is reclassified to a felony of the second degree.

4. A felony of the second degree is reclassified to a felony of the first degree.

5. A felony of the first degree is reclassified to a life felony.

(b) As used in paragraph (a), the term:

1. "Advanced age" means that the victim is older than 65 years of age.

2. "Homeless status" means that the victim:

a. Lacks a fixed, regular, and adequate nighttime residence; or

b. Has a primary nighttime residence that is:

(I) A supervised publicly or privately operated shelter designed to provide temporary living accommodations; or

(II) A public or private place not designed for, or ordinarily used as, a regular sleeping accommodation for human beings.

3. "Code enforcement officer" means any designated employee or agent of a county or municipality whose duty it is to enforce codes and ordinances enacted by the county or municipality.

4. "Emergency services personnel" means anyone who provides emergency medical services and other public safety services to the scene of an emergency.

5. "Firefighter" means any firefighter regularly employed by a fire department of any municipality, county, or Special Fire Control District of the State of Florida.

6. "Law enforcement officer" means any active or retired municipal, county or state law enforcement officer, state and county correction officer or Public Service Aids, and those employees of any municipal, county, state or federal law

enforcement agencies whose duties include the enforcement of municipal, county, state or federal laws.

(2) A person or organization that establishes by clear and convincing evidence that it has been coerced, intimidated, or threatened in violation of this section has a civil cause of action for treble damages, an injunction, or any other appropriate relief in law or in equity. Upon prevailing in such civil action, the plaintiff may recover reasonable attorney fees and costs.

(3) It is an essential element of this section that the record reflect that the defendant perceived, knew, or had reasonable grounds to know or perceive that the victim was within the class delineated in this section.

Section 2: That the City Clerk is hereby directed to transmit certified copies of this Resolution the members of the Florida Legislature, the Governor, the Florida Department of Law Enforcement and other concerned parties.

Section 3: That this Resolution shall go into effect immediately upon its passage and adoption and authentication by the signature of the presiding officer and the Clerk of the Commission.

Passed and adopted by the City Commission at a meeting held
this _____ day of _____, 2016.

Authenticated by the presiding officer and Clerk of the
Commission on _____, 2016.

Filed with the Clerk _____, 2016.

Mayor Craig Cates	_____
Vice Mayor Clayton Lopez	_____
Commissioner Sam Kaufman	_____
Commissioner Richard Payne	_____
Commissioner Margaret Romero	_____
Commissioner Billy Wardlow	_____
Commissioner Jimmy Weekley	_____

CRAIG CATES, MAYOR

ATTEST:

CHERYL SMITH, CITY CLERK