

# MIAMI BEACH

OFFICE OF THE CITY MANAGER

No. 269-2016

LETTER TO COMMISSION

TO: Mayor Philip Levine and Members of the City Commission

FROM: Jimmy L. Morales, City Manager



DATE: July 13, 2016

SUBJECT: **CITY OF SOUTH MIAMI RESOLUTION**

Attached for your information is Resolution No. 106-16-14661, adopted by the Mayor and Commission of the City of South Miami on June 7, 2016.

A Resolution Of The Mayor And City Commission Of The City Of South Miami Requesting That The Florida Legislature Amend Florida Statutes, Section 775.085, To Include Enhanced Penalties For Felonies And Misdemeanors Committed Against Law Enforcement Officers, Firefighters, And Emergency Services Personnel Due To Their Employment Status.

The City of South Miami has requested that a copy of this resolution be provided to the Miami Beach Mayor and Commissioners.

If you have any questions, please contact the Office of the City Clerk at 305.673.7411.

JLM/REG

Attachment

RESOLUTION NO. 106-16-14661

**A Resolution of the Mayor and City Commission of the City of South Miami requesting that the Florida Legislature amend Florida Statutes, Section 775.085, to include enhanced penalties for felonies and misdemeanors committed against law enforcement officers, firefighters, and emergency services personnel due to their employment status.**

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

**WHEREAS**, the legislature enacted the Hate Crimes Reporting Act, section 877.19, Florida Statutes, that requires law enforcement agencies to report hate crimes to the Florida Department of Law Enforcement (FDLE); and

**WHEREAS**, the 1995 report of the Florida Attorney General found 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 or her personal characteristics; and

**WHEREAS**, under section 775.085, Florida Statutes, criminal penalties are enhanced for such hate-based acts. As the Florida Department of Law Enforcement notes in its Hate Crime Report Manual, the motivation behind the act is the key element in determining whether an incident is hate-related. Reported hate crime offenses ranged in seriousness from vandalism and intimidation to aggravated battery and murder; and

**WHEREAS**, there have been an increasing number of hate crimes against law enforcement, firefighters and emergency personnel.

**NOW THEREFORE, BE IT RESOLVED BY THE MAYOR AND CITY COMMISSIONERS OF THE CITY OF SOUTH MIAMI, FLORIDA:**

**Section 1.** The Mayor and City Commission of the City of South Miami hereby encourages the Florida Legislature to amend Florida Statute, Section 775.085 to include employment as law enforcement officers, firefighters, and emergency services personnel among the classifications that are protected against hate crimes as follows:

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, mental or physical disability, or advanced age of the victim, or because of actual or perceived employment as a law enforcement officer, firefighter, or emergency services personnel:

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. "Mental or physical disability" means that the victim suffers from a condition of physical or mental incapacitation due to a developmental disability, organic brain damage, or mental illness, and has one or more physical or mental limitations that restrict the victim's ability to perform the normal activities of daily living.

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

3. "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.

4. "Emergency services personnel" shall mean 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 correctional 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's 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.** The City Clerk is hereby instructed to send a copy of this resolution to the members of the Florida Legislature, the Governor and his cabinet, the Florida Department of Law Enforcement as well as to all of the law enforcement agencies of all of the Florida counties and municipalities.

**Section 3. Severability.** If any section clause, sentence, or phrase of this resolution is for any reason held invalid or unconstitutional by a court of competent jurisdiction, the holding shall not affect the validity of the remaining portions of this resolution.

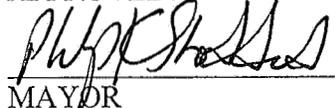
**Section 4. Effective Date.** This resolution shall become effective immediately upon adoption by vote of the City Commission.

PASSED AND ADOPTED this 7th day of June, 2016.

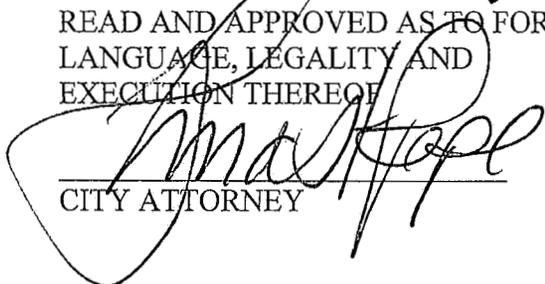
ATTEST:

  
CITY CLERK

APPROVED:

  
MAYOR

READ AND APPROVED AS TO FORM,  
LANGUAGE, LEGALITY AND  
EXECUTION THEREOF

  
CITY ATTORNEY

COMMISSION VOTE: 5-0  
Mayor Stoddard: Yea  
Vice Mayor Welsh: Yea  
Commissioner Harris: Yea  
Commissioner Edmond: Yea  
Commissioner Liebman: Yea