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RESOLUTION NO. 2016-63

**A RESOLUTION OF THE MAYOR AND VILLAGE COUNCIL OF THE VILLAGE OF PALMETTO BAY, FLORIDA, URGING THE FLORIDA LEGISLATURE TO AMEND FLORIDA LAW BY ADDING ENHANCED PENALTIES FOR FELONIES AND MISDEMEANORS COMMITTED AGAINST LAW ENFORCEMENT OFFICERS, FIREFIGHTERS, AND EMERGENCY SERVICES PERSONNEL DUE TO THEIR EMPLOYMENT STATUS; AND PROVIDING FOR AN EFFECTIVE DATE. (Sponsored by Mayor Eugene Flinn)**

**WHEREAS**, in 1989, the Florida Legislature enacted several statutes designed to address the issue of hate crimes. F.S. 775.085 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, F.S. 877.19, 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 and 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 F.S. 775.085, criminal penalties are enhanced for such hate-based acts; 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 THE VILLAGE COUNCIL OF THE VILLAGE OF PALMETTO BAY, FLORIDA,**

**Section 1.** That the Village Council hereby urges the Florida Legislature to amend F.S. 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.

- 1 2. A misdemeanor of the first degree is reclassified to a felony of the third  
2 degree.
- 3
- 4 3. A felony of the third degree is reclassified to a felony of the second degree.
- 5
- 6 4. A felony of the second degree is reclassified to a felony of the first degree.
- 7
- 8 5. A felony of the first degree is reclassified to a life felony.
- 9

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

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

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

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19 3. "Homeless status" means that the victim:

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

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23 b. Has a primary nighttime residence that is:

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

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

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31 4. "Emergency services personnel" shall mean anyone who provided emergency  
32 medical services and other public safety services to the scene of an emergency.

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

36  
37 6. "Law enforcement officer" means any active or retired municipal, county, or  
38 state law enforcement officer, state and county correctional officer, or Public  
39 Service Aids, and those employees of any municipal, county, state or federal law  
40 enforcement agencies whose duties include the enforcement of municipal, county,  
41 state or federal laws.

42  
43 (2) A person or organization that establishes by clear and convincing evidence that it has  
44 been coerced, intimidated, or threatened in violation of this section has a civil cause of  
45 action for treble damages, an injunction, or any other appropriate relief in law or in  
46 equity. Upon prevailing in such civil action, the plaintiff may recover reasonable  
47 attorney's fees and costs.

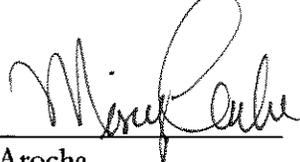
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49 (3) It is an essential element of this section that the record reflects that the defendant

1 perceived, knew, or had reasonable grounds to know or perceive that the victim was  
2 within the class delineated in this section.

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4 **Section 2.** The Village Clerk is hereby directed to send a copy of this Resolution to  
5 the Village's representatives in the Florida Legislature, the Governor, and the Florida Department  
6 of Law Enforcement.

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8 **Section 3.** This Resolution shall be effective immediately upon adoption.

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10 PASSED AND ADOPTED this 15<sup>th</sup> day of August, 2016.

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14 Attest:   
15 Missy Arocha  
16 Village Clerk

  
Eugene Flinn  
Mayor

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18  
19 APPROVED AS TO FORM AND LEGAL SUFFICIENCY FOR THE  
20 USE AND RELIANCE OF THE VILLAGE OF PALMETTO BAY ONLY:

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23   
24 Dexter W. Lehtinen  
25 Village Attorney

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27  
28  
29 FINAL VOTE AT ADOPTION:

- 30  
31 Council Member Karyn Cunningham YES  
32  
33 Council Member Tim Schaffer YES  
34  
35 Council Member Larissa Siegel Lara YES  
36  
37 Vice-Mayor John DuBois YES  
38  
39 Mayor Eugene Flinn YES