

PROPOSED

ORDINANCE NO.

AN ORDINANCE OF THE BOARD OF COUNTY COMMISSIONERS OF BROWARD COUNTY, FLORIDA, PERTAINING TO INSTITUTIONAL VANDALISM AND BIAS-MOTIVATED CRIMES; AMENDING ARTICLE IV OF CHAPTER 21 OF THE BROWARD COUNTY CODE OF ORDINANCES ("CODE"); ESTABLISHING DIVISIONS; PROVIDING FOR APPLICABILITY AND DEFINITIONS; ESTABLISHING A BASIS FOR A CIVIL ACTION AND REPORTING OBLIGATIONS ARISING FROM INCIDENTS OF INSTITUTIONAL VANDALISM OR BIAS-MOTIVATED CRIMES; AND PROVIDING FOR SEVERABILITY, INCLUSION IN THE CODE, AND AN EFFECTIVE DATE.

(Sponsored by Senator Nan H. Rich)

BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF BROWARD COUNTY, FLORIDA:

Section 1. Article IV, Chapter 21, of the Broward County Code of Ordinances is hereby amended and Division 1 is hereby created to read as follows:

ARTICLE IV. GRAFFITI, INSTITUTIONAL VANDALISM,

AND BIAS-MOTIVATED CRIMES

DIVISION 1. GRAFFITI

Section 2. Section 21-41 of the Broward County Code of Ordinances is hereby amended to read as follows:

Sec. 21-41. Application.

This ~~article~~ Division 1 shall be applicable in the unincorporated areas of Broward County. Enforcement of the provisions of this ~~section~~ division will be the responsibility of the Broward County Sheriff's Department, the Broward County Resilient Environment

1 Department of ~~Strategic Planning and Growth Management~~, or any other person(s)
2 designated by the Broward County Administrator.

3
4 Section 3. Division 2, Sections 21-45 through 21-50 of the Broward County
5 Code of Ordinances are hereby created to read as follows:

6 [Underlining omitted]

7 **DIVISION 2. INSTITUTIONAL VANDALISM AND BIAS-MOTIVATED CRIMES**

8 **Sec. 21-45. Applicability.**

9 This Division 2 shall apply countywide, unless in conflict with an applicable
10 municipal ordinance, pursuant to Section 11.01 of the Charter of Broward County. Unless
11 otherwise provided, nothing in this division shall be construed to relieve a person from
12 compliance with applicable County or municipal regulations.

13 **Sec. 21-46. Definitions.**

14 *Advanced age* shall mean that the victim is at least sixty-five (65) years of age.

15 *Bias-Motivated Crime* shall mean a crime committed by any person by reason of
16 the actual or perceived race, ethnicity, color, religion or creed, national origin or ancestry,
17 sex (including gender, pregnancy, sexual orientation, and gender identity or expression),
18 advanced age, disability, homeless status, or citizenship of another individual or group of
19 individuals.

20 *Code* shall mean the Broward County Code of Ordinances.

21 *Crime* shall mean any action or omission that constitutes an offense that may be
22 prosecuted by the State of Florida and is punishable by law.

23 *Disability* shall mean a physical or mental impairment that substantially limits a
24 major life activity.

1 *Gender identity or expression* shall mean a person's actual or perceived
2 gender-related identity, appearance, behavior, expression, or other gender-related
3 characteristic, regardless of the sex assigned to that person at birth, including, but not
4 limited to, the status of being transgender.

5 *Homeless status* shall mean that the individual:

6 (a) Lacks a fixed, regular, and adequate nighttime residence; or

7 (b) Has a primary nighttime residence as defined below.

8 *Institutional vandalism* shall mean the act of knowingly defacing, vandalizing, or
9 otherwise damaging:

10 (a) Any church, synagogue, mosque, or other building, structure, or place used
11 for religious worship or other religious purpose;

12 (b) Any cemetery, mortuary, or other facility used for the purpose of burial or
13 memorializing the dead;

14 (c) Any school, educational facility, park, or community center;

15 (d) Any hospital, clinic, or other facility used for the purpose of rendering
16 medical services of any kind;

17 (e) Any residence or primary nighttime residence;

18 (f) The grounds adjacent to, and owned or rented by, any institution or place
19 described in Sections (a), (b), (c), (d), or (e) above; or

20 (g) Any personal property contained in or owned by any institution or place
21 described in Sections (a), (b), (c), (d), or (e) above.

22 *Primary nighttime residence* shall mean:

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

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

Sec. 21-47. Institutional Vandalism.

(a) Any person engaging in institutional vandalism shall be in violation of this section.

(b) Violations.

(1) A violation of this section shall, upon conviction, be punished as provided by Section 806.13, Florida Statutes.

(2) In addition to any punishment, the court shall order any person having been found to have engaged in institutional vandalism to make restitution to the victim or to the County or municipality, as applicable. Restitution shall include, but not be limited to, all reasonable costs associated with curing the damage or loss directly or indirectly caused by the violator's offense. In the case of an unemancipated minor, the parent(s) or legal guardian(s) of the unemancipated minor shall be jointly and severally liable for such restitution.

(3) In addition to any punishment, the court may, in its discretion, order any person found to have engaged in institutional vandalism to perform community service.

Sec. 21-48. Bias-Motivated Crimes.

(a) Any person who has committed a bias-motivated crime shall be held in violation of this section.

(b) A violation of this section shall, upon conviction, be punished by a fine not to exceed five hundred dollars (\$500.00) per offense, per day, or by imprisonment in the

1 County jail not to exceed sixty (60) days, or both fine and imprisonment, pursuant to
2 Section 125.69, Florida Statutes.

3 **Sec. 21-49. Civil Action for Institutional Vandalism and Bias-Motivated Crimes.**

4 (a) Irrespective of any criminal prosecution or result thereof, or any fine, any
5 persons, including the County or a municipality, incurring injury to their person or damage
6 or loss to their property as a result of conduct in violation of Section 21-47 or 21-48 of the
7 Code may bring a civil action to secure an injunction, damages, or other appropriate relief
8 in law or in equity against any and all persons who have violated Section 21-47 or 21-48
9 of the Code. Civil actions instituted under this section shall be governed by the Florida
10 Rules of Civil Procedure.

11 (b) In any such action, the existence of a violation of Section 21-47 or 21-48 of
12 the Code shall be determined according to the burden of proof used in other civil actions
13 for similar relief.

14 (c) In a civil action commenced pursuant to this section, if the court finds that a
15 violation of Section 21-47 or 21-48 of the Code has occurred, the court shall grant an
16 award of compensatory, nominal, or punitive damages, as applicable, and reasonable
17 attorney's fees and costs to the prevailing party.

18 (d) Notwithstanding any other provision of the law to the contrary, the parent(s)
19 or legal guardian(s) of any unemancipated minor shall be jointly and severally liable for
20 any judgment rendered against such minor under this section.

21 **Sec. 21-50. Reporting of Institutional Vandalism and Bias-Motivated Crimes.**

22 Any violation of Section 21-47 or 21-48 of the Code shall be reported pursuant to
23 Section 877.19, Florida Statutes, to the Florida Department of Law Enforcement.
24

1 Section 4. Severability.

2 If any portion of this Ordinance is determined by any court to be invalid, the invalid
3 portion will be stricken, and such striking will not affect the validity of the remainder of this
4 Ordinance. If any court determines that this Ordinance, in whole or in part, cannot be
5 legally applied to any individual, group, entity, property, or circumstance, such
6 determination will not affect the applicability of this Ordinance to any other individual,
7 group, entity, property, or circumstance.

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9 Section 5. Inclusion in the Broward County Code of Ordinances.

10 It is the intention of the Board of County Commissioners that the provisions of this
11 Ordinance become part of the Broward County Code of Ordinances as of the effective
12 date. The sections of this Ordinance may be renumbered or relettered and the word
13 "ordinance" may be changed to "section," "article," or such other appropriate word or
14 phrase to the extent necessary in order to accomplish such intention.

Section 6. Effective Date.

This Ordinance is effective as of the date provided by law.

ENACTED

PROPOSED

FILED WITH THE DEPARTMENT OF STATE

EFFECTIVE

Approved as to form and legal sufficiency:
Andrew J. Meyers, County Attorney

By /s/ Alexis Marrero Koratich 04/27/2022
Alexis Marrero Koratich (date)
Assistant County Attorney

By /s/ Maite Azcoitia 04/27/2022
Maite Azcoitia (date)
Deputy County Attorney

AIK/gmb
Chapter 21 Institutional Vandalism and Bias-Motivated Crime Ord.
04/27/2022
#60057-0010

Coding: Words in ~~struck-through~~ type are deletions from existing text. Words in underscored type are additions.