

By Senator Campbell

33-7-98

1 A bill to be entitled
 2 An act relating to offenses that evidence
 3 prejudice; amending s. 775.085, F.S.; providing
 4 enhanced penalties for offenses that show
 5 evidence of prejudice against the victim, based
 6 on the victim's mental or physical disability
 7 or advanced age; providing definitions;
 8 providing an effective date.

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 10 Be It Enacted by the Legislature of the State of Florida:

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 12 Section 1. Section 775.085, Florida Statutes, is
 13 amended to read:

14 775.085 Evidencing prejudice while committing offense;
 15 reclassification ~~enhanced penalties~~.--

16 (1)(a) ~~The penalty for any felony or~~ misdemeanor shall
 17 be reclassified to the next higher degree as provided in this
 18 subsection if the commission of such felony or misdemeanor
 19 evidences prejudice based on the race, color, ancestry,
 20 ethnicity, religion, sexual orientation, ~~or~~ national origin,
 21 mental or physical disability, or advanced age of the victim:

22 1.(a) In the case of a misdemeanor of the second
 23 degree, the offense is reclassified to ~~shall be punishable as~~
 24 ~~if it were~~ a misdemeanor of the first degree.

25 2.(b) In the case of a misdemeanor of the first
 26 degree, the offense is reclassified to ~~shall be punishable as~~
 27 ~~if it were~~ a felony of the third degree.

28 3.(c) In the case of a felony of the third degree, the
 29 offense is reclassified to ~~shall be punishable as if it were~~ a
 30 felony of the second degree.

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1 4.~~(d)~~ In the case of a felony of the second degree,
2 the offense is reclassified to shall be punishable as if it
3 ~~were~~ a felony of the first degree.

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

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

11 2. "Advanced age" means that the victim is older than
12 65 years of age.

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

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

24 Section 2. This act shall take effect October 1, 1998.

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27 SENATE SUMMARY

28 Requires that the penalty for an offense be reclassified
29 to a more severe penalty if the commission of the offense
30 evidences prejudice based on the mental or physical
31 disability or advanced age of the victim.