

By Representative Fasano

1 A bill to be entitled
2 An act relating to sexual battery; amending s.
3 775.085, F.S.; reclassifying penalties relating
4 to offenses evidencing prejudice; amending s.
5 794.023, F.S.; reclassifying penalties for
6 offenses involving multiple perpetrators of
7 sexual battery; providing an effective date.

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

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11 Section 1. Paragraph (a) of subsection (1) of section
12 775.085, Florida Statutes, 1998 Supplement, is amended to
13 read:

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

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

22 1. A misdemeanor of the second degree is reclassified
23 to ~~shall be punishable as if it were~~ a misdemeanor of the
24 first degree.

25 2. A misdemeanor of the first degree is reclassified
26 to ~~shall be punishable as if it were~~ a felony of the third
27 degree.

28 3. A felony of the third degree is reclassified to
29 ~~shall be punishable as if it were~~ a felony of the second
30 degree.

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1 4. A felony of the second degree is reclassified to
2 ~~shall be punishable as if it were~~ a felony of the first
3 degree.

4 5. A felony of the first degree is reclassified to
5 ~~shall be punishable as if it were~~ a life felony.

6 Section 2. Section 794.023, Florida Statutes, is
7 amended to read:

8 794.023 Sexual battery by multiple perpetrators;
9 reclassified ~~enhanced~~ penalties.--

10 (1) The Legislature finds that an act of sexual
11 battery, when committed by more than one person, presents a
12 great danger to the public and is extremely offensive to
13 civilized society. It is therefore the intent of the
14 Legislature to reclassify ~~provide enhanced~~ penalties for acts
15 of sexual battery committed by more than one person.

16 (2) The penalty for a violation of s. 794.011 shall be
17 reclassified ~~increased~~ as provided in this subsection if it is
18 charged and proven by the prosecution that, during the same
19 criminal transaction or episode, more than one person
20 committed an act of sexual battery on the same victim.

21 (a) A felony of the second degree is reclassified to
22 ~~shall be punishable as if it were~~ a felony of the first
23 degree.

24 (b) A felony of the first degree is reclassified to
25 ~~shall be punishable as if it were~~ a life felony.

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27 This subsection does not apply to life felonies or capital
28 felonies. For purposes of sentencing under chapter 921 and
29 determining incentive gain-time eligibility under chapter 944,
30 a felony offense which is reclassified under this subsection
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1 is ranked one level above the ranking under s. 921.0012 or s.
2 921.0013 of the offense committed.

3 Section 3. This act shall take effect July 1, 1999.

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6 HOUSE SUMMARY

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8 Reclassifies penalties for commissions of felonies or
9 misdemeanors evidencing prejudice based on the race,
10 color, ancestry, ethnicity, religion, sexual orientation,
11 national origin, mental or physical disability, or
12 advanced age of the victim and for commissions of sexual
13 battery involving multiple perpetrators. See bill for
14 details.

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