

By the Committee on Crime & Punishment and Representatives Fasano, Ball and Fiorentino

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28  
29  
30  
31

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

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

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

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

(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, mental or physical  
disability, or advanced age of the victim:

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

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

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

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, as  
7 amended by chapter 97-194, Laws of Florida, is amended to  
8 read:

9           794.023 Sexual battery by multiple perpetrators;  
10 reclassification ~~enhanced penalties~~.--

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

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

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

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

27  
28 This subsection does not apply to life felonies or capital  
29 felonies. For purposes of sentencing under chapter 921 and  
30 determining incentive gain-time eligibility under chapter 944,  
31 a felony offense that is reclassified under this subsection is

1 ranked one level above the ranking under s. 921.0022 or s.  
2 921.0023 of the offense committed.

3 Section 3. This act shall take effect July 1, 1999.  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28  
29  
30  
31