

CHAMBER ACTION

1 The Justice Council recommends the following:

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3 **Council/Committee Substitute**

4 Remove the entire bill and insert:

5 A bill to be entitled

6 An act relating to assault or battery on homeless persons;
7 amending s. 775.085, F.S.; reclassifying offenses
8 evidencing prejudice based on the homeless status of the
9 victim; creating s. 784.0815, F.S.; providing a
10 definition; providing a minimum sentence and other
11 penalties for a person convicted of an aggravated assault
12 or aggravated battery upon a homeless person; providing an
13 effective date.

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

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17 Section 1. Subsection (1) of section 775.085, Florida
18 Statutes, is amended to read:

19 775.085 Evidencing prejudice while committing offense;
20 reclassification.--

21 (1)(a) The penalty for any felony or misdemeanor shall be
22 reclassified as provided in this subsection if the commission of
23 such felony or misdemeanor evidences prejudice based on the

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24 | race, color, ancestry, ethnicity, religion, sexual orientation,
25 | national origin, homeless status, mental or physical disability,
26 | or advanced age of the victim:

27 | 1. A misdemeanor of the second degree is reclassified to a
28 | misdemeanor of the first degree.

29 | 2. A misdemeanor of the first degree is reclassified to a
30 | felony of the third degree.

31 | 3. A felony of the third degree is reclassified to a
32 | felony of the second degree.

33 | 4. A felony of the second degree is reclassified to a
34 | felony of the first degree.

35 | 5. A felony of the first degree is reclassified to a life
36 | felony.

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

38 | 1. "Mental or physical disability" means that the victim
39 | suffers from a condition of physical or mental incapacitation
40 | due to a developmental disability, organic brain damage, or
41 | mental illness, and has one or more physical or mental
42 | limitations that restrict the victim's ability to perform the
43 | normal activities of daily living.

44 | 2. "Advanced age" means that the victim is older than 65
45 | years of age.

46 | 3. "Homeless status" means that the victim is homeless as
47 | the term is defined in s. 420.621.

48 | Section 2. Section 784.0815, Florida Statutes, is created
49 | to read:

50 | 784.0815 Assault or battery on homeless persons.--

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51 (1) For purposes of this section, the term "homeless"
52 shall have the same meaning as provided in s. 420.621.

53 (2) A person who is convicted of an aggravated assault or
54 aggravated battery upon a homeless person shall be sentenced to
55 a minimum term of imprisonment of 3 years and fined not more
56 than \$10,000 and shall also be ordered by the sentencing judge
57 to make restitution to the victim of the offense and to perform
58 up to 500 hours of community service work. Restitution and
59 community service work shall be in addition to any fine or
60 sentence that may be imposed and shall not be in lieu thereof.
61 Notwithstanding the provisions of s. 948.01, adjudication of
62 guilt or imposition of sentence shall not be suspended,
63 deferred, or withheld.

64 Section 3. This act shall take effect October 1, 2006.