

By Senator Hutson

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1 A bill to be entitled
2 An act relating to mental or physical disabilities;
3 providing a short title; amending s. 775.085, F.S.;
4 deleting enhanced penalties for crimes evidencing
5 prejudice based on mental or physical disability;
6 deleting the definition of the term "mental or
7 physical disability"; creating s. 775.0851, F.S.;
8 defining the term "mental or physical disability";
9 creating enhanced penalties for crimes evidencing
10 prejudice based on mental or physical disability;
11 creating a cause of action for a person or
12 organization that is threatened with certain
13 violations; providing an essential element for such
14 cause of action; providing an effective date.

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

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18 Section 1. This act may be cited as "Carl's Law."

19 Section 2. Subsection (1) of section 775.085, Florida
20 Statutes, is amended to read:

21 775.085 Evidencing prejudice while committing offense;
22 reclassification.-

23 (1) (a) The penalty for any felony or misdemeanor shall be
24 reclassified as provided in this subsection if the commission of
25 such felony or misdemeanor evidences prejudice based on the
26 race, color, ancestry, ethnicity, religion, sexual orientation,
27 national origin, homeless status, ~~mental or physical disability,~~
28 or advanced age of the victim:

29 1. A misdemeanor of the second degree is reclassified to a

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30 misdemeanor of the first degree.

31 2. A misdemeanor of the first degree is reclassified to a
32 felony of the third degree.

33 3. A felony of the third degree is reclassified to a felony
34 of the second degree.

35 4. A felony of the second degree is reclassified to a
36 felony of the first degree.

37 5. A felony of the first degree is reclassified to a life
38 felony.

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

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

46 1.2. "Advanced age" means that the victim is older than 65
47 years of age.

48 2.3. "Homeless status" means that the victim:

49 a. Lacks a fixed, regular, and adequate nighttime
50 residence; or

51 b. Has a primary nighttime residence that is:

52 (I) A supervised publicly or privately operated shelter
53 designed to provide temporary living accommodations; or

54 (II) A public or private place not designed for, or
55 ordinarily used as, a regular sleeping accommodation for human
56 beings.

57 Section 3. Section 775.0851, Florida Statutes, is created
58 to read:

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59 775.0851 Evidencing prejudice while committing offense
60 against persons with mental or physical disabilities;
61 reclassification.-

62 (1) As used in this section, the term "mental or physical
63 disability" means that the victim suffers from a condition of
64 physical or mental incapacitation due to a developmental
65 disability, organic brain damage, or mental illness and has one
66 or more physical or mental limitations that restrict the
67 victim's ability to perform the normal activities of daily
68 living.

69 (2) The penalty for any felony or misdemeanor shall be
70 reclassified as provided in this subsection if the commission of
71 the felony or misdemeanor evidences prejudice based on the
72 mental or physical disability of the victim:

73 (a) A misdemeanor of the second degree is reclassified to a
74 misdemeanor of the first degree.

75 (b) A misdemeanor of the first degree is reclassified to a
76 felony of the third degree.

77 (c) A felony of the third degree is reclassified to a
78 felony of the second degree.

79 (d) A felony of the second degree is reclassified to a
80 felony of the first degree.

81 (e) A felony of the first degree is reclassified to a life
82 felony.

83 (3) A person or organization that establishes by clear and
84 convincing evidence that it has been coerced, intimidated, or
85 threatened in violation of this section has a civil cause of
86 action for treble damages, an injunction, or any other
87 appropriate relief in law or in equity. Upon prevailing in such

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88 civil action, the plaintiff may recover reasonable attorney fees
89 and costs.

90 (4) It is an essential element of this section that the
91 record reflect that the defendant perceived, knew, or had
92 reasonable grounds to know or perceive that the victim had a
93 mental or physical disability.

94 Section 4. This act shall take effect October 1, 2016.