

By Senator Rader

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1 A bill to be entitled
2 An act relating to reclassification of crimes
3 committed against certain victims; amending s.
4 775.085, F.S.; requiring the reclassification of
5 crimes evidencing prejudice, in whole or in part,
6 based on gender, among other factors; amending s.
7 775.0863, F.S.; requiring the reclassification of
8 crimes evidencing prejudice, in whole or in part,
9 based on a disability of the victim; revising the term
10 "mental or physical disability"; creating s. 775.0864,
11 F.S.; requiring the reclassification of crimes if a
12 person intentionally selects and commits a crime
13 against a first responder, correctional or
14 correctional probation officer, state attorney or
15 assistant state attorney, or justice or judge;
16 providing for a civil cause of action under certain
17 circumstances for treble damages, an injunction, or
18 other relief; providing for the recovery of attorney
19 fees and court costs; providing that knowledge by the
20 defendant that the victim worked in a certain
21 occupation is an essential element for the
22 reclassification of the offense; amending s. 921.0022,
23 F.S.; conforming a provision to changes made by the
24 act; providing an effective date.

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

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28 Section 1. Paragraph (a) of subsection (1) of section
29 775.085, Florida Statutes, is amended to read:

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30 775.085 Evidencing prejudice while committing offense;
31 reclassification.-

32 (1) (a) The penalty for any felony or misdemeanor shall be
33 reclassified as provided in this subsection if the commission of
34 such felony or misdemeanor evidences prejudice, in whole or in
35 part, based on the race, color, ancestry, ethnicity, religion,
36 sexual orientation, national origin, homeless status, ~~or~~
37 advanced age, or gender of the victim:

38 1. A misdemeanor of the second degree is reclassified to a
39 misdemeanor of the first degree.

40 2. A misdemeanor of the first degree is reclassified to a
41 felony of the third degree.

42 3. A felony of the third degree is reclassified to a felony
43 of the second degree.

44 4. A felony of the second degree is reclassified to a
45 felony of the first degree.

46 5. A felony of the first degree is reclassified to a life
47 felony.

48 Section 2. Subsection (1) of section 775.0863, Florida
49 Statutes, is amended to read:

50 775.0863 Evidencing prejudice while committing offense
51 against person with ~~mental or physical~~ disability;
52 reclassification.-

53 (1) (a) The penalty for any felony or misdemeanor shall be
54 reclassified as provided in this subsection if the commission of
55 such felony or misdemeanor evidences prejudice, in whole or in
56 part, based on a ~~mental or physical~~ disability of the victim:

57 1. A misdemeanor of the second degree is reclassified to a
58 misdemeanor of the first degree.

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59 2. A misdemeanor of the first degree is reclassified to a
60 felony of the third degree.

61 3. A felony of the third degree is reclassified to a felony
62 of the second degree.

63 4. A felony of the second degree is reclassified to a
64 felony of the first degree.

65 5. A felony of the first degree is reclassified to a life
66 felony.

67 (b) As used in paragraph (a), the term "~~mental or physical~~
68 disability" means the victim has a physical or mental impairment
69 that substantially limits one or more major life activities a
70 ~~condition of mental or physical incapacitation due to a~~
71 ~~developmental disability, organic brain damage, or mental~~
72 ~~illness, and one or more mental or physical limitations that~~
73 ~~restrict a person's ability to perform the normal activities of~~
74 ~~daily living.~~

75 (2) A person or organization that establishes by clear and
76 convincing evidence that it has been coerced, intimidated, or
77 threatened in violation of this section has a civil cause of
78 action for treble damages, an injunction, or any other
79 appropriate relief in law or in equity. Upon prevailing in such
80 civil action, the plaintiff may recover reasonable attorney fees
81 and costs.

82 (3) It is an essential element of this section that the
83 record reflect that the defendant perceived, knew, or had
84 reasonable grounds to know or perceive that the victim was
85 within the class delineated in this section.

86 Section 3. Section 775.0864, Florida Statutes, is created
87 to read:

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88 775.0864 Intentionally selecting first responder,
89 correctional officer, correctional probation officer, state
90 attorney, assistant state attorney, justice, or judge for
91 offense; reclassification.-

92 (1) The penalty for a felony or misdemeanor offense shall
93 be reclassified for a person who intentionally selects and
94 commits a crime against a first responder as defined in s.
95 112.1815, a correctional officer or a correctional probation
96 officer as defined in s. 943.10, a state attorney elected
97 pursuant to s. 27.01, an assistant state attorney appointed
98 under s. 27.181, or a justice or judge of a court described in
99 Art. V of the State Constitution, as follows:

100 (a) A misdemeanor of the second degree is reclassified to a
101 misdemeanor of the first degree.

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

104 (c) A felony of the third degree is reclassified to a
105 felony of the second degree.

106 (d) A felony of the second degree is reclassified to a
107 felony of the first degree.

108 (e) A felony of the first degree is reclassified to a life
109 felony.

110 (2) A person who establishes by clear and convincing
111 evidence that he or she has been coerced, intimidated, or
112 threatened in violation of this section has a civil cause of
113 action for treble damages, an injunction, or any other
114 appropriate relief in law or in equity. Upon prevailing in such
115 civil action, the plaintiff may recover reasonable attorney fees
116 and court costs.

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117 (3) It is an essential element for the reclassification of
118 an offense under this section that the record reflect that the
119 defendant knew, or had reasonable grounds to know, that the
120 victim was a first responder, correctional officer, correctional
121 probation officer, state attorney, assistant state attorney,
122 justice, or judge.

123 Section 4. Subsection (2) of section 921.0022, Florida
124 Statutes, is amended to read:

125 921.0022 Criminal Punishment Code; offense severity ranking
126 chart.—

127 (2) The offense severity ranking chart has 10 offense
128 levels, ranked from least severe, which are level 1 offenses, to
129 most severe, which are level 10 offenses, and each felony
130 offense is assigned to a level according to the severity of the
131 offense. For purposes of determining which felony offenses are
132 specifically listed in the offense severity ranking chart and
133 which severity level has been assigned to each of these
134 offenses, the numerical statutory references in the left column
135 of the chart and the felony degree designations in the middle
136 column of the chart are controlling; the language in the right
137 column of the chart is provided solely for descriptive purposes.
138 Reclassification of the degree of the felony through the
139 application of s. 775.0845, s. 775.085, s. 775.0861, s.
140 775.0862, s. 775.0863, s. 775.0864, s. 775.087, s. 775.0875, s.
141 794.023, or any other law that provides an enhanced penalty for
142 a felony offense, to any offense listed in the offense severity
143 ranking chart in this section shall not cause the offense to
144 become unlisted and is not subject to the provisions of s.
145 921.0023.

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Section 5. This act shall take effect October 1, 2017.