

By Senator Rader

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1 A bill to be entitled
2 An act relating to crimes evidencing prejudice;
3 amending s. 775.085, F.S.; requiring grounds for
4 reclassification of crimes to include prejudice based
5 on the gender or gender identity of the victim;
6 defining the term "gender identity"; amending s.
7 775.0863, F.S.; requiring grounds for reclassification
8 of crimes to include prejudice based on a disability
9 of the victim; revising the definition of the term
10 "disability"; reenacting s. 921.0022(2), F.S.,
11 relating to the Criminal Punishment Code and the
12 offense severity ranking chart, to incorporate the
13 amendments made to ss. 775.085 and 775.0863, F.S., in
14 references thereto; providing an effective date.

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

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

20 775.085 Evidencing prejudice while committing offense;
21 reclassification.—

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

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

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

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

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

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

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

39 1. "Advanced age" means that the victim is older than 65
40 years of age.

41 2. "Gender identity" means the victim's internal sense of
42 being male, female, or a combination of both. A victim's
43 internal sense of gender may be different from the victim's
44 gender determined at birth.

45 ~~3.2.~~ "Homeless status" means that the victim:

46 a. Lacks a fixed, regular, and adequate nighttime
47 residence; or

48 b. Has a primary nighttime residence that is:

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

51 (II) A public or private place not designed for, or
52 ordinarily used as, a regular sleeping accommodation for human
53 beings.

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

56 775.0863 Evidencing prejudice while committing offense
57 against person with mental or physical disability;
58 reclassification.-

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

63 1. A misdemeanor of the second degree is reclassified to a
64 misdemeanor of the first degree.

65 2. A misdemeanor of the first degree is reclassified to a
66 felony of the third degree.

67 3. A felony of the third degree is reclassified to a felony
68 of the second degree.

69 4. A felony of the second degree is reclassified to a
70 felony of the first degree.

71 5. A felony of the first degree is reclassified to a life
72 felony.

73 (b) As used in paragraph (a), the term "disability" ~~"mental~~
74 ~~or physical disability"~~ means a physical or mental impairment
75 that substantially limits a person's ability to perform one or
76 more major life activities ~~a condition of mental or physical~~
77 ~~incapacitation due to a developmental disability, organic brain~~
78 ~~damage, or mental illness, and one or more mental or physical~~
79 ~~limitations that restrict a person's ability to perform the~~
80 ~~normal activities of daily living.~~

81 Section 3. For the purpose of incorporating the amendments
82 made by this act to sections 775.085 and 775.0863, Florida
83 Statutes, in references thereto, subsection (2) of section
84 921.0022, Florida Statutes, is reenacted to read:

85 921.0022 Criminal Punishment Code; offense severity ranking
86 chart.—

87 (2) The offense severity ranking chart has 10 offense

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88 levels, ranked from least severe, which are level 1 offenses, to
89 most severe, which are level 10 offenses, and each felony
90 offense is assigned to a level according to the severity of the
91 offense. For purposes of determining which felony offenses are
92 specifically listed in the offense severity ranking chart and
93 which severity level has been assigned to each of these
94 offenses, the numerical statutory references in the left column
95 of the chart and the felony degree designations in the middle
96 column of the chart are controlling; the language in the right
97 column of the chart is provided solely for descriptive purposes.
98 Reclassification of the degree of the felony through the
99 application of s. 775.0845, s. 775.085, s. 775.0861, s.
100 775.0862, s. 775.0863, s. 775.087, s. 775.0875, s. 794.023, or
101 any other law that provides an enhanced penalty for a felony
102 offense, to any offense listed in the offense severity ranking
103 chart in this section shall not cause the offense to become
104 unlisted and is not subject to the provisions of s. 921.0023.

105 Section 4. This act shall take effect July 1, 2017.