

1 A bill to be entitled
 2 An act relating to crimes evidencing prejudice;
 3 amending s. 775.085, F.S.; providing for the
 4 enhancement of penalties for certain offenses if the
 5 commission of the offense evidences prejudice based on
 6 the victim's employment as a justice or judge, a
 7 correctional officer or correctional probation
 8 officer, or a first responder; defining the term
 9 "employment"; providing an effective date.

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

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 13 Section 1. Section 775.085, Florida Statutes, is amended
 14 to read:

15 775.085 Evidencing prejudice while committing offense;
 16 reclassification.—

17 (1)(a) The penalty for any felony or misdemeanor shall be
 18 reclassified as provided in this subsection if the commission of
 19 such felony or misdemeanor evidences prejudice based on the
 20 race, color, ancestry, ethnicity, religion, sexual orientation,
 21 national origin, homeless status, or advanced age of the victim
 22 or the victim's employment as a justice or a judge for the state
 23 courts system as defined in s. 25.382, a correctional officer or
 24 a correctional probation officer as defined in s. 943.10, or a
 25 first responder as defined in s. 112.1815:

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

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

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

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

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

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

37 | 1. "Advanced age" means that the victim is older than 65
 38 | years of age.

39 | 2. "Employment" includes a full-time, a part-time, an
 40 | auxiliary, or a volunteer position.

41 | ~~3.2.~~ "Homeless status" means that the victim:

42 | a. Lacks a fixed, regular, and adequate nighttime
 43 | residence; or

44 | b. Has a primary nighttime residence that is:

45 | (I) A supervised publicly or privately operated shelter
 46 | designed to provide temporary living accommodations; or

47 | (II) A public or private place not designed for, or
 48 | ordinarily used as, a regular sleeping accommodation for human
 49 | beings.

50 | (2) A person or organization that establishes by clear and

51 convincing evidence that it has been coerced, intimidated, or
52 threatened in violation of this section has a civil cause of
53 action for treble damages, an injunction, or any other
54 appropriate relief in law or in equity. Upon prevailing in such
55 civil action, the plaintiff may recover reasonable attorney fees
56 and costs.

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

61 (4) This section does not apply to an offense subject to
62 s. 782.065 or s. 784.07.

63 Section 2. This act shall take effect October 1, 2017.