

By Senator Berman

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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.; expanding grounds for the
4 reclassification of crimes to include prejudice based
5 on the gender or gender identity of any person;
6 specifying that the reclassification occurs if the
7 crime was based in whole or in part on the race,
8 color, ancestry, ethnicity, religion, sexual
9 orientation, national origin, homeless status,
10 advanced age, gender, or gender identity of any
11 person; defining the term "gender identity"; amending
12 s. 775.0863, F.S.; replacing the term "mental or
13 physical disability" with the term "disability";
14 defining the term "disability"; specifying that the
15 reclassification of a certain crime occurs if the
16 crime was based in whole or in part on a disability of
17 any person; providing an effective date.

18
19 Be It Enacted by the Legislature of the State of Florida:

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

23 775.085 Evidencing prejudice while committing offense;
24 reclassification.—

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

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30 advanced age, gender, or gender identity of any person ~~the~~
31 ~~victim~~:

32 1. A misdemeanor of the second degree is reclassified to a
33 misdemeanor of the first degree.

34 2. A misdemeanor of the first degree is reclassified to a
35 felony of the third degree.

36 3. A felony of the third degree is reclassified to a felony
37 of the second degree.

38 4. A felony of the second degree is reclassified to a
39 felony of the first degree.

40 5. A felony of the first degree is reclassified to a life
41 felony.

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

43 1. "Advanced age" means that the person ~~victim~~ is older
44 than 65 years of age.

45 2. "Gender identity" means a person's gender-related
46 identity, appearance, or behavior, regardless of whether such
47 gender-related identity, appearance, or behavior is different
48 from that traditionally associated with the person's physiology
49 or assigned sex at birth.

50 ~~3.2.~~ "Homeless status" means that the person ~~victim~~:

51 a. Lacks a fixed, regular, and adequate nighttime
52 residence; or

53 b. Has a primary nighttime residence that is:

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

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

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59 Section 2. Section 775.0863, Florida Statutes, is amended
60 to read:

61 775.0863 Evidencing prejudice while committing offense
62 against person with ~~mental or physical~~ disability;
63 reclassification.—

64 (1) (a) The penalty for any felony or misdemeanor shall be
65 reclassified as provided in this subsection if the commission of
66 such felony or misdemeanor evidences prejudice based in whole or
67 in part on a ~~mental or physical~~ disability of any person the
68 victim:

69 1. A misdemeanor of the second degree is reclassified to a
70 misdemeanor of the first degree.

71 2. A misdemeanor of the first degree is reclassified to a
72 felony of the third degree.

73 3. A felony of the third degree is reclassified to a felony
74 of the second degree.

75 4. A felony of the second degree is reclassified to a
76 felony of the first degree.

77 5. A felony of the first degree is reclassified to a life
78 felony.

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

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

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88 convincing evidence that it has been coerced, intimidated, or
89 threatened in violation of this section has a civil cause of
90 action for treble damages, an injunction, or any other
91 appropriate relief in law or in equity. Upon prevailing in such
92 civil action, the plaintiff may recover reasonable attorney fees
93 and costs.

94 (3) It is an essential element of this section that the
95 record reflect that the defendant perceived, knew, or had
96 reasonable grounds to know or perceive that the person ~~victim~~
97 was within the class delineated in this section.

98 Section 3. This act shall take effect July 1, 2021.