

By Senator Berman

26-00034-23

2023276__

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 acts of
5 prejudice based on the gender or gender identity of
6 any person; specifying that the reclassification must
7 occur if the crime was based in whole or in part on
8 the race, color, ancestry, ethnicity, religion, sexual
9 orientation, national origin, homeless status,
10 advanced age, gender, or gender identity of any
11 person; revising the definitions of the terms
12 "advanced age" and "homeless status"; defining the
13 term "gender identity"; amending s. 775.0863, F.S.;
14 replacing the term "mental or physical disability"
15 with the term "disability"; defining the term
16 "disability"; specifying that the reclassification of
17 a certain crime must occur if the crime was based in
18 whole or in part on a disability of any person;
19 amending s. 877.19, F.S.; expanding the data the
20 Governor is required to collect and disseminate to
21 include incidents of criminal acts that evidence
22 prejudice based on gender, gender identity, or
23 disability; providing an effective date.

24
25 Be It Enacted by the Legislature of the State of Florida:

26
27 Section 1. Section 775.085, Florida Statutes, is amended to
28 read:

29 775.085 Evidencing prejudice while committing offense;

26-00034-23

2023276__

30 reclassification.-

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

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

51 2. "Gender identity" means a person's gender-related
52 identity, appearance, or behavior, regardless of whether such
53 gender-related identity, appearance, or behavior is different
54 from that traditionally associated with the person's physiology
55 or assigned sex at birth.

56 ~~3.2-~~ "Homeless status" means that the person ~~victim~~:

57 a. Lacks a fixed, regular, and adequate nighttime
58 residence; or

26-00034-23

2023276__

59 b. Has a primary nighttime residence that is:

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

62 (II) A public or private place not designed for, or
63 ordinarily used as, a regular sleeping accommodation for human
64 beings.

65 (2) A person or organization that establishes by clear and
66 convincing evidence that it has been coerced, intimidated, or
67 threatened in violation of this section has a civil cause of
68 action for treble damages, an injunction, or any other
69 appropriate relief in law or in equity. Upon prevailing in such
70 civil action, the plaintiff may recover reasonable attorney fees
71 and costs.

72 (3) It is an essential element of this section that the
73 record reflect that the defendant perceived, knew, or had
74 reasonable grounds to know or perceive that the person ~~victim~~
75 was included in a ~~within the~~ class delineated in this section.

76 Section 2. Section 775.0863, Florida Statutes, is amended
77 to read:

78 775.0863 Evidencing prejudice while committing offense
79 against person with ~~mental or physical~~ disability;
80 reclassification.—

81 (1) (a) The penalty for any felony or misdemeanor shall be
82 reclassified as provided in this subsection if the commission of
83 such felony or misdemeanor evidences prejudice based in whole or
84 in part on a ~~mental or physical~~ disability of any person ~~the~~
85 ~~victim~~:

86 1. A misdemeanor of the second degree is reclassified to a
87 misdemeanor of the first degree.

26-00034-23

2023276__

88 2. A misdemeanor of the first degree is reclassified to a
89 felony of the third degree.

90 3. A felony of the third degree is reclassified to a felony
91 of the second degree.

92 4. A felony of the second degree is reclassified to a
93 felony of the first degree.

94 5. A felony of the first degree is reclassified to a life
95 felony.

96 (b) As used in paragraph (a), the term "disability" ~~"mental~~
97 ~~or physical disability"~~ means a physical or mental impairment
98 that substantially limits one or more of a person's major life
99 activities ~~a condition of mental or physical incapacitation due~~
100 ~~to a developmental disability, organic brain damage, or mental~~
101 ~~illness, and one or more mental or physical limitations that~~
102 ~~restrict a person's ability to perform the normal activities of~~
103 ~~daily living.~~

104 (2) A person or organization that establishes by clear and
105 convincing evidence that it has been coerced, intimidated, or
106 threatened in violation of this section has a civil cause of
107 action for treble damages, an injunction, or any other
108 appropriate relief in law or in equity. Upon prevailing in such
109 civil action, the plaintiff may recover reasonable attorney fees
110 and costs.

111 (3) It is an essential element of this section that the
112 record reflect that the defendant perceived, knew, or had
113 reasonable grounds to know or perceive that the person ~~victim~~
114 was included in ~~within~~ the class delineated in this section.

115 Section 3. Subsection (2) of section 877.19, Florida
116 Statutes, is amended to read:

26-00034-23

2023276__

117 877.19 Hate Crimes Reporting Act.—

118 (2) ACQUISITION AND PUBLICATION OF DATA.—The Governor,
119 through the ~~Florida~~ Department of Law Enforcement, shall collect
120 and disseminate data on incidents of criminal acts that evidence
121 prejudice based on race, religion, ethnicity, color, ancestry,
122 sexual orientation, gender, gender identity, disability, or
123 national origin. All law enforcement agencies shall report
124 monthly to the ~~Florida~~ Department of Law Enforcement concerning
125 such offenses in such form and in such manner as prescribed by
126 rules adopted by the department. Such information shall be
127 compiled by the department and disseminated upon request to any
128 local law enforcement agency, unit of local government, or state
129 agency.

130 Section 4. This act shall take effect July 1, 2023.