

By Senator Sharief

35-01456-25

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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.; providing definitions;
 4 expanding grounds for the reclassification of crimes
 5 to include acts of prejudice based upon the gender of
 6 a victim; specifying that the reclassification occurs
 7 if the crime was based in whole or in part on the
 8 actual or perceived characteristics of the victim;
 9 amending s. 775.0863, F.S.; revising the definition of
 10 the term "mental or physical disability"; defining the
 11 term "victim"; providing for the reclassification of a
 12 crime if it was based in whole or in part on the
 13 actual or perceived mental or physical disability of
 14 the victim; amending s. 817.034, F.S.; conforming
 15 provisions to changes made by the act; providing an
 16 effective date.

17
 18 Be It Enacted by the Legislature of the State of Florida:

19
 20 Section 1. Section 775.085, Florida Statutes, is amended to
 21 read:

22 775.085 Evidencing prejudice while committing offense;
 23 reclassification.—

24 (1) ~~(b)~~ As used in this section ~~paragraph (a)~~, the term:
 25 (a)1. "Advanced age" means that the victim is older than 65
 26 years of age.

27 (b) "Ethnicity" means the cultural characteristics and
 28 traits that make someone part of a particular ethnic group.

29 (c) "Gender" means the sex assigned to an individual at

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30 birth.

31 ~~(d)2.~~ "Homeless status" means that the victim:

32 ~~1.a.~~ Lacks a fixed, regular, and adequate nighttime
33 residence; or

34 ~~2.b.~~ Has a primary nighttime residence that is:

35 ~~a.(I)~~ A supervised publicly or privately operated shelter
36 designed to provide temporary living accommodations; or

37 ~~b.(II)~~ A public or private place not designed for, or
38 ordinarily used as, a regular sleeping accommodation for human
39 beings.

40 (e) "National origin" means the country in which a person
41 was born, the nationality of an ancestor, or the country of
42 origin of a person's ancestors whether naturally, by marriage,
43 or by adoption.

44 (f) "Race" includes traits historically associated with
45 race, including, but not limited to, hair texture, hair type,
46 and protective hairstyles, such as braids, locs, and twists.

47 (g) "Religion" means all aspects of religious observance,
48 practice, and belief.

49 (h) "Victim" includes, but is not limited to, all of the
50 following:

51 1. An individual.

52 2. A public or private organization that owns property that
53 is defaced, damaged, or destroyed based upon the perpetrator's
54 prejudice against a person or group included in a class
55 delineated in this section.

56 3. A state entity or a local governmental entity, as
57 defined in s. 164.1031(1), which owns property that is defaced,
58 damaged, or destroyed based upon the perpetrator's prejudice

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59 against a person or group included in a class delineated in this
60 section.

61 (2)(a) The penalty for any felony or misdemeanor must ~~shall~~
62 be reclassified as provided in this subsection if the commission
63 of such felony or misdemeanor evidences prejudice based in whole
64 or in part on the actual or perceived race, color, ancestry,
65 ethnicity, religion, gender, sexual orientation, national
66 origin, homeless status, or advanced age of the victim:

67 (a)1. A misdemeanor of the second degree is reclassified to
68 a misdemeanor of the first degree.

69 (b)2. A misdemeanor of the first degree is reclassified to
70 a felony of the third degree.

71 (c)3. A felony of the third degree is reclassified to a
72 felony of the second degree.

73 (d)4. A felony of the second degree is reclassified to a
74 felony of the first degree.

75 (e)5. A felony of the first degree is reclassified to a
76 life felony.

77 (3)(2) A person or an organization that establishes by
78 clear and convincing evidence that it has been coerced,
79 intimidated, or threatened in violation of this section has a
80 civil cause of action for treble damages, an injunction, or any
81 other appropriate relief in law or in equity. Upon prevailing in
82 such civil action, the plaintiff may recover reasonable attorney
83 fees and costs.

84 (4)(3) It is an essential element of this section that the
85 record reflect that the defendant perceived, knew, or had
86 reasonable grounds to know or perceive that the victim was
87 included in a ~~within the~~ class delineated in this section.

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88 Section 2. Section 775.0863, Florida Statutes, is amended
89 to read:

90 775.0863 Evidencing prejudice while committing offense
91 against person with mental or physical disability;
92 reclassification.-

93 (1) ~~(b)~~ As used in this section ~~paragraph (a)~~, the term:
94 (a) "Mental or physical disability" means:

95 1. A condition of mental or physical incapacitation due to
96 a developmental disability, organic brain damage, or mental
97 illness, and one or more mental or physical limitations that
98 restrict a person's ability to perform the normal activities of
99 daily living; or

100 2. A mental or physical impairment that substantially
101 limits one or more major life activities of an individual. As
102 used in this subparagraph, the term:

103 a. "Major life activity" means an important function of an
104 individual, such as caring for one's self, performing manual
105 tasks, walking, seeing, hearing, speaking, breathing, learning,
106 or working.

107 b. "Mental or physical impairment" means:

108 (I) A physiological disorder or condition, disfigurement,
109 or anatomical loss that affects one or more bodily functions; or

110 (II) A mental or psychological disorder that is addressed
111 in one of the diagnostic categories specified in the most recent
112 edition of the Diagnostic and Statistical Manual of Mental
113 Disorders published by the American Psychiatric Association,
114 such as an intellectual or developmental disability, an organic
115 brain syndrome, a traumatic brain injury, a posttraumatic stress
116 disorder, or an emotional or a mental illness.

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117 (b) "Victim" includes, but is not limited to, all of the
118 following:

119 1. An individual.

120 2. A public or private organization that owns property that
121 is defaced, damaged, or destroyed based upon the perpetrator's
122 prejudice against a person or a group included in the class
123 delineated in this section.

124 3. A state entity or a local governmental entity, as
125 defined in s. 164.1031(1), which owns property that is defaced,
126 damaged, or destroyed based upon the perpetrator's prejudice
127 against a person or a group included in the class delineated in
128 this section.

129 (2)(a) The penalty for any felony or misdemeanor must ~~shall~~
130 be reclassified as provided in this subsection if the commission
131 of such felony or misdemeanor evidences prejudice based in whole
132 or in part on an actual or a perceived ~~a~~ mental or physical
133 disability of the victim:

134 (a)1. A misdemeanor of the second degree is reclassified to
135 a misdemeanor of the first degree.

136 (b)2. A misdemeanor of the first degree is reclassified to
137 a felony of the third degree.

138 (c)3. A felony of the third degree is reclassified to a
139 felony of the second degree.

140 (d)4. A felony of the second degree is reclassified to a
141 felony of the first degree.

142 (e)5. A felony of the first degree is reclassified to a
143 life felony.

144 (3)(2) A person or an organization that establishes by
145 clear and convincing evidence that it has been coerced,

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146 intimidated, or threatened in violation of this section has a
147 civil cause of action for treble damages, an injunction, or any
148 other appropriate relief in law or in equity. Upon prevailing in
149 such civil action, the plaintiff may recover reasonable attorney
150 fees and costs.

151 (4)~~(3)~~ It is an essential element of this section that the
152 record reflect that the defendant perceived, knew, or had
153 reasonable grounds to know or perceive that the victim was
154 included in ~~within~~ the class delineated in this section.

155 Section 3. Paragraph (c) of subsection (4) of section
156 817.034, Florida Statutes, is amended to read:

157 817.034 Florida Communications Fraud Act.—

158 (4) OFFENSES.—

159 (c) The penalty for committing an offense specified in
160 paragraph (a) or paragraph (b) against a person age 65 years or
161 older, against a minor, or against a person with a mental or
162 physical disability, as defined in s. 775.0863(1) ~~s.~~
163 ~~775.0863(1)(b)~~, shall be reclassified as follows:

164 1. A misdemeanor of the first degree is reclassified to a
165 felony of the third degree.

166 2. A felony of the third degree is reclassified to a felony
167 of the second degree.

168 3. A felony of the second degree is reclassified to a
169 felony of the first degree.

170 4. A felony of the first degree is reclassified to a life
171 felony.

172 Section 4. This act shall take effect July 1, 2025.