

By Senator Smith

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1 A bill to be entitled
2 An act relating to offenses evidencing prejudice;
3 amending s. 775.085, F.S.; expanding grounds for the
4 reclassification of offenses to include acts based on
5 the gender or gender identity of any person; requiring
6 that the reclassification occur if the offense was
7 based in whole or in part on specified characteristics
8 of any person; defining the term "gender identity";
9 revising the definitions of the terms "advanced age"
10 and "homeless status"; providing that it is an
11 essential element of a certain offense that the
12 defendant perceived, knew, or had reasonable grounds
13 to know or perceive that a person was included in a
14 certain class; amending s. 775.0863, F.S.; replacing
15 the term "mental or physical disability" with the term
16 "disability" and revising the definition; requiring
17 that the reclassification of a certain offense occur
18 if the offense was based in whole or in part on a
19 disability of any person; providing penalties;
20 amending s. 817.034, F.S.; conforming provisions to
21 changes made by the act; amending s. 877.19, F.S.;
22 expanding the data the Governor, through the
23 Department of Law Enforcement, is required to collect
24 and disseminate to include specified incidents;
25 providing an effective date.

26
27 Be It Enacted by the Legislature of the State of Florida:

28
29 Section 1. Section 775.085, Florida Statutes, is amended to

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30 read:

31 775.085 Evidencing prejudice while committing offense;
32 reclassification.-

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

39 1. A misdemeanor of the second degree is reclassified to a
40 misdemeanor of the first degree.

41 2. A misdemeanor of the first degree is reclassified to a
42 felony of the third degree.

43 3. A felony of the third degree is reclassified to a felony
44 of the second degree.

45 4. A felony of the second degree is reclassified to a
46 felony of the first degree.

47 5. A felony of the first degree is reclassified to a life
48 felony.

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

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

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

57 ~~3.2.~~ "Homeless status" means that the person ~~victim~~:

58 a. Lacks a fixed, regular, and adequate nighttime

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residence; or

b. Has a primary nighttime residence that is:

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

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

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

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

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

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

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

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

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88 misdemeanor of the first degree.

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

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

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

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

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

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

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

116 Section 3. Paragraph (c) of subsection (4) of section

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817.034, Florida Statutes, is amended, and paragraphs (a) and (b) that subsection are republished, to read:

817.034 Florida Communications Fraud Act.—

(4) OFFENSES.—

(a) Any person who engages in a scheme to defraud and obtains property thereby commits organized fraud, punishable as follows:

1. If the amount of property obtained has an aggregate value of \$50,000 or more, the person commits a felony of the first degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

2. If the amount of property obtained has an aggregate value of \$20,000 or more, but less than \$50,000, the person commits a felony of the second degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

3. If the amount of property obtained has an aggregate value of less than \$20,000, the person commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(b) Any person who engages in a scheme to defraud and, in furtherance of that scheme, communicates with any person with intent to obtain property from that person commits, for each such act of communication, communications fraud, punishable as follows:

1. If the value of property obtained or endeavored to be obtained by the communication is valued at \$300 or more, the person commits a third degree felony, punishable as set forth in s. 775.082, s. 775.083, or s. 775.084.

2. If the value of the property obtained or endeavored to

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be obtained by the communication is valued at less than \$300,
the person commits a misdemeanor of the first degree, punishable
as set forth in s. 775.082 or s. 775.083.

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

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

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

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

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

Section 4. Subsection (2) of section 877.19, Florida
Statutes, is amended to read:

877.19 Hate Crimes Reporting Act.—

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

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175 local law enforcement agency, unit of local government, or state
176 agency.

177 Section 5. This act shall take effect October 1, 2026.