

ENROLLED

HB 387

2016 Legislature

1  
 2 An act relating to offenses evidencing prejudice;  
 3 providing a short title; amending s. 775.085, F.S.;  
 4 deleting provisions relating to reclassification of  
 5 offenses committed while evidencing prejudice based on  
 6 a mental or physical disability of the victim;  
 7 creating s. 775.0863, F.S.; providing for  
 8 reclassification of offenses committed while  
 9 evidencing prejudice based on a mental or physical  
 10 disability of the victim; defining the term "mental or  
 11 physical disability"; providing for a civil cause of  
 12 action for violations; providing for recovery of  
 13 treble damages, costs, and attorney fees; specifying  
 14 an essential element of the offense; amending s.  
 15 921.0022, F.S.; revising references to offense  
 16 reclassification provisions; providing an effective  
 17 date.

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

20  
 21 Section 1. This act may be cited as "Carl's Law."

22 Section 2. Subsections (1) and (2) of section 775.085,  
 23 Florida Statutes, are amended to read:

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

26 (1) (a) The penalty for any felony or misdemeanor shall be

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27 reclassified as provided in this subsection if the commission of  
 28 such felony or misdemeanor evidences prejudice based on the  
 29 race, color, ancestry, ethnicity, religion, sexual orientation,  
 30 national origin, homeless status, ~~mental or physical disability,~~  
 31 or advanced age of the 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  
 37 felony 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. "Mental or physical disability" means that the victim~~  
 44 ~~suffers from a condition of physical or mental incapacitation~~  
 45 ~~due to a developmental disability, organic brain damage, or~~  
 46 ~~mental illness, and has one or more physical or mental~~  
 47 ~~limitations that restrict the victim's ability to perform the~~  
 48 ~~normal activities of daily living.~~

49 1.2. "Advanced age" means that the victim is older than 65  
 50 years of age.

51 2.3. "Homeless status" means that the victim:

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

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53 residence; or

54 b. Has a primary nighttime residence that is:

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

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

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

67 Section 3. Section 775.0863, Florida Statutes, is created  
68 to read:

69 775.0863 Evidencing prejudice while committing offense  
70 against person with mental or physical disability;  
71 reclassification.-

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

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

78 2. A misdemeanor of the first degree is reclassified to a

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79 felony of the third degree.

80 3. A felony of the third degree is reclassified to a  
 81 felony of the second degree.

82 4. A felony of the second degree is reclassified to a  
 83 felony of the first degree.

84 5. A felony of the first degree is reclassified to a life  
 85 felony.

86 (b) As used in paragraph (a), the term "mental or physical  
 87 disability" means a condition of mental or physical  
 88 incapacitation due to a developmental disability, organic brain  
 89 damage, or mental illness, and one or more mental or physical  
 90 limitations that restrict a person's ability to perform the  
 91 normal activities of daily living.

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

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

103 Section 4. Subsection (2) of section 921.0022, Florida  
 104 Statutes, is amended to read:

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105           921.0022 Criminal Punishment Code; offense severity  
106 ranking chart.—

107           (2) The offense severity ranking chart has 10 offense  
108 levels, ranked from least severe, which are level 1 offenses, to  
109 most severe, which are level 10 offenses, and each felony  
110 offense is assigned to a level according to the severity of the  
111 offense. For purposes of determining which felony offenses are  
112 specifically listed in the offense severity ranking chart and  
113 which severity level has been assigned to each of these  
114 offenses, the numerical statutory references in the left column  
115 of the chart and the felony degree designations in the middle  
116 column of the chart are controlling; the language in the right  
117 column of the chart is provided solely for descriptive purposes.  
118 Reclassification of the degree of the felony through the  
119 application of s. 775.0845, s. 775.085, s. 775.0861, s.  
120 775.0862, s. 775.0863, s. 775.087, s. 775.0875, s. 794.023, or  
121 any other law that provides an enhanced penalty for a felony  
122 offense, to any offense listed in the offense severity ranking  
123 chart in this section shall not cause the offense to become  
124 unlisted and is not subject to the provisions of s. 921.0023.

125           Section 5. This act shall take effect October 1, 2016.