

By Senator Garcia

36-00097-18

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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.; requiring reclassified  
4       crimes to include actual or perceived sex, creed, or  
5       employment in specified jobs of the victims; defining  
6       the term "emergency service employee"; reenacting s.  
7       921.0022(2), F.S., relating to the Criminal Punishment  
8       Code and the offense severity ranking chart, to  
9       incorporate the amendment made to s. 775.085, F.S., in  
10      a reference thereto; providing an effective date.

11  
12 Be It Enacted by the Legislature of the State of Florida:

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14       Section 1. Subsection (1) of section 775.085, Florida  
15       Statutes, is amended to read:

16       775.085 Evidencing prejudice while committing offense;  
17       reclassification.-

18       (1)(a) The penalty for any felony or misdemeanor shall be  
19       reclassified as provided in this subsection if the commission of  
20       such felony or misdemeanor evidences prejudice based on the  
21       actual or perceived race, sex, creed, color, ancestry,  
22       ethnicity, religion, sexual orientation, national origin,  
23       homeless status, or advanced age of the victim or based on the  
24       actual or perceived employment of the victim as a law  
25       enforcement officer or an emergency service employee:

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

28       2. A misdemeanor of the first degree is reclassified to a  
29       felony of the third degree.

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30           3. A felony of the third degree is reclassified to a felony  
31 of the second degree.

32           4. A felony of the second degree is reclassified to a  
33 felony of the first degree.

34           5. A felony of the first degree is reclassified to a life  
35 felony.

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

37           1. "Advanced age" means that the victim is older than 65  
38 years of age.

39           2. "Emergency service employee" has the same meaning as in  
40 s. 496.404.

41           ~~3.2.~~ "Homeless status" means that the victim:

42           a. Lacks a fixed, regular, and adequate nighttime  
43 residence; or

44           b. Has a primary nighttime residence that is:

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

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

50           Section 2. For the purpose of incorporating the amendment  
51 made by this act to section 775.085, Florida Statutes, in a  
52 reference thereto, subsection (2) of section 921.0022, Florida  
53 Statutes, is reenacted to read:

54           921.0022 Criminal Punishment Code; offense severity ranking  
55 chart.—

56           (2) The offense severity ranking chart has 10 offense  
57 levels, ranked from least severe, which are level 1 offenses, to  
58 most severe, which are level 10 offenses, and each felony

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59 offense is assigned to a level according to the severity of the  
60 offense. For purposes of determining which felony offenses are  
61 specifically listed in the offense severity ranking chart and  
62 which severity level has been assigned to each of these  
63 offenses, the numerical statutory references in the left column  
64 of the chart and the felony degree designations in the middle  
65 column of the chart are controlling; the language in the right  
66 column of the chart is provided solely for descriptive purposes.  
67 Reclassification of the degree of the felony through the  
68 application of s. 775.0845, s. 775.085, s. 775.0861, s.  
69 775.0862, s. 775.0863, s. 775.087, s. 775.0875, s. 794.023, or  
70 any other law that provides an enhanced penalty for a felony  
71 offense, to any offense listed in the offense severity ranking  
72 chart in this section shall not cause the offense to become  
73 unlisted and is not subject to the provisions of s. 921.0023.

74 Section 3. This act shall take effect July 1, 2018.