

By Senator Dean

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1 A bill to be entitled
2 An act relating to crimes evidencing prejudice;
3 amending ss. 775.085 and 877.19, F.S.; providing for
4 the enhancement of penalties for an offense if the
5 commission of the offense evidences prejudice based on
6 the victim's employment as an officer of the court, a
7 correctional officer, or as a first responder;
8 providing for reporting concerning such offenses;
9 providing an effective date.

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

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13 Section 1. Section 775.085, Florida Statutes, is amended to
14 read:

15 775.085 Evidencing prejudice while committing offense;
16 reclassification.—

17 (1) (a) The penalty for any felony or misdemeanor shall be
18 reclassified as provided in this subsection if the commission of
19 such felony or misdemeanor evidences prejudice based on the
20 race, color, ancestry, ethnicity, religion, sexual orientation,
21 national origin, homeless status, mental or physical disability,
22 or advanced age of the victim or the victim's employment as an
23 officer of the court, a correctional officer as defined in s.
24 943.10, or as a first responder as defined in s. 112.1815:

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

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

29 3. A felony of the third degree is reclassified to a felony

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30 of the second degree.

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

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

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

36 1. "Mental or physical disability" means that the victim
37 suffers from a condition of physical or mental incapacitation
38 due to a developmental disability, organic brain damage, or
39 mental illness, and has one or more physical or mental
40 limitations that restrict the victim's ability to perform the
41 normal activities of daily living.

42 2. "Advanced age" means that the victim is older than 65
43 years of age.

44 3. "Homeless status" means that the victim:

45 a. Lacks a fixed, regular, and adequate nighttime
46 residence; or

47 b. Has a primary nighttime residence that is:

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

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

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

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59 ~~attorney's~~ fees and costs.

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

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

66 877.19 Hate Crimes Reporting Act.—

67 (2) ACQUISITION AND PUBLICATION OF DATA.—The Governor,
68 through the ~~Florida~~ Department of Law Enforcement, shall collect
69 and disseminate data on incidents of criminal acts that evidence
70 prejudice based on race, religion, ethnicity, color, ancestry,
71 sexual orientation, or national origin or the victim's
72 employment as an officer of the court, a correctional officer as
73 defined in s. 943.10, or as a first responder as defined in s.
74 112.1815. All law enforcement agencies shall report monthly to
75 the ~~Florida~~ Department of Law Enforcement concerning such
76 offenses in such form and in such manner as prescribed by rules
77 adopted by the department. Such information shall be compiled by
78 the department and disseminated upon request to any local law
79 enforcement agency, unit of local government, or state agency.

80 Section 3. This act shall take effect October 1, 2016.